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THE CODE OF DEUTERONOMY

A NEW THEORY OF ITS ORIGIN

BY

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PREFACE

The study of the Deuteronomic Code here presented must largely be occupied with polemic. Had its aim been merely polemical, it would have deserved the jibe of one of my students who described modern Old Testament scholars as a band of cannibals who refreshed themselves by devouring one another. It might then have been relegated to a magazine devoted to the work of specialists, and been left accessible to those specially addicted to these ghoulish feasts. But all the polemic with which the book abounds is intended merely to clear the ground for certain positive conclusions, and it is in order to present these results that the volume has been written.

Since the subject of Deuteronomy, its purpose and its date, is one which may interest others than specialists, and since the positive result arrived at has issues beyond the concern of specialists, it was advisable to attempt to cast the discussion into a form which would not be too technical. The discussion must at times enter into technical details; but the trend of

the argument can be set out in such a way that readers who are not Hebrew students may, with no more than close attention, follow the conclusions and measure the grounds on which they are advanced. I do not claim to have succeeded in this effort: I merely claim to have attempted it. As, however, the discussion is based directly on the Hebrew text, the Scripture references in all cases are, not to the English, but to the Hebrew Bible.

I am greatly indebted to the help of two good friends. My colleague, Professor H. A. A. Kennedy, has kindly permitted himself to be made the tester as to the measure of success with which the subject has been brought within the reach of others than Old Testament specialists. If I emphasise this side of the service he has done me, it is to make clear that he is in no way responsible for the positions advanced. To an older friend, Rev. B. R. H. Mein, I owe a minuter criticism and many valuable suggestions. He has done much more for the book than read the proofs.

A. C. W.

New College, *May* 1924.

CONTENTS

CHAP.		PAGE
I.	Introductory	9
II.	Laws Dealing Directly with the Cult . .	24
III.	The Officials	87
IV.	Miscellaneous Laws	133
V.	On the Framework of the Code and its Lawgivers	174
VI.	Conclusions	193
	Index	221

THE CODE OF DEUTERONOMY

CHAPTER I

INTRODUCTORY

For a generation the question of the purpose of Deuteronomy has been *chose jugée*. The book has been regarded as the programme put forward by the religious leaders who, at the time of Josiah's reform in 621, succeeded in making a momentous change in Israel's worship. They centralised the worship of the nation at the temple in Jerusalem; and brought it about that from this period sacrifices, offered at any other shrine or by the hands of other priests than those of the Aaronic priesthood, became *ipso facto* illegitimate. The chief means by which they effected this was the production of a Book of the Covenant which they had found in the temple. Certain features in the reform, which need not be detailed here, seemed to serve to identify this Book of the Covenant with our Book of Deuteronomy. Hence the Deuteronomic Code was regarded as being essentially the programme of the reformers.

As the indubitable result of the reform was to make the temple the only legitimate sanctuary, Deuteronomy, it was thought, must make centralisation of worship a leading theme in all its law. The book need not have been, indeed could not have been, in every part and in all its details a wholly new creation. No nation which was deeply attached to old habits of worship would ever have accepted a system which changed all these habits. It was therefore allowed that much of the code was old, and that many of its regulations were those by which Israel had long been guided in its religious life. But everything in it had been submitted to a careful revision, the purpose of which had been to adapt the older legislation to the new conditions of the nation's life and worship. In particular, wherever the novel principle of the centralisation of the cult impinged upon or conflicted with the old habits of the people, the earlier rules were modified in order to bring them into line with the later demand. Festivals which once were celebrated at local sanctuaries could now take place only at the temple: the festival calendar was rearranged. Priests who once officiated at local shrines were deprived of their functions: provision was made for them. Local judges must give way to centralised officials. Great ingenuity was expended on pointing out how, by additions here and slight changes there,

the original laws were altered in order to accommodate them to the far-reaching requirement of Josiah's reform. By these means it came to be accepted, as a firm conclusion of criticism, that, apart from later post-exilic additions which could be easily recognised, our Book of Deuteronomy was the programme for the centralisation of Israel's cult.

On the basis of this, which was accepted as sure, criticism has chiefly moved in two directions. Thus efforts have been made to discover what might be the original laws, before they were adapted to serve the principle of centralisation. By the use of tests borrowed from the history of the nation and the development of its religious ideas, it seemed possible to sift out certain laws as early and to set down others as later. The law about the dead body found in the fields (xxi. 1–9) showed the presence in the community of primitive ideas as to the way in which unatoned blood in itself brought guilt on the land. On the other hand, the regulations as to prophecy (xiii. 2–6, xviii. 15–22) revealed more advanced religious ideas and conscious theological reflection. By a careful use of these tests it appeared possible to determine within limits to what periods of Israel's history certain laws belonged. The earlier laws constituted the original Deuteronomy : the others were later accretions.

But, again, attention was directed, not only to the

date of individual regulations but to the grouping and arrangement of them. It was true that the laws of chapters xii.–xxvi. defied every effort to discover any principle which had led to their present order. But there were a number which regarded certain offences as תועבה, abomination in Israel, there were others which dealt with questions of civil order and judicial practice among the people. These could be grouped together, and might show the presence of older collections, which have been later dispersed through the book, as the psalms of the Korahites are now scattered through the Psalter. There might be, not only older laws, but older codes of law, in the present Deuteronomy, and our book might be a combination of these earlier collections.

Further, the introductory matter in the early chapters must be related to the code. Klostermann suggested that here were allocutions delivered in connection with the reading of the law. Yet the chapters were patently not a unity. Either they represented an original introduction which had been largely increased by later additions, or they were made up of one or more addresses of a similar character which had been combined into one. Attention was drawn to the fact that some of these were written in the second person singular, and others in the second person plural, and efforts were made, chiefly by

Stärk, Steuernagel, and Puukko to carry through a division of the whole law based on this difference. The attempt has not been successful: Steuernagel in the second edition of his commentary surrenders it as a useful criterion. Yet the general view remained that, since the introductory matter was composite, it represented several allocutions delivered on different occasions when the law was promulgated. This carried with it the opinion that there had been several editions of Deuteronomy, published at different times. And the composite character of the laws themselves, the fact that they could be shown in certain cases to belong to different periods of the nation's development, and the existence of a number of laws which could be collected into groups, helped to confirm this impression. It was suggested that the present Book of Deuteronomy was late and was made up of the combination of several earlier editions. Careful use of linguistic tests and historical hints might make it possible to distinguish between the different layers of law, and the same tests might determine to which of these the appropriate introductory material belonged. The original editions might thus be discovered, which a later editor combined into one book. Puukko [1] has made such a separation, and Hempel,[2] in a very suggestive and

[1] *Das Deuteronomium.*
[2] *Die Schichten des Deuteronomium.*

interesting monograph, has also attempted to relate each successive edition to the particular period of Israel's life for which it was written. He has sought to point out how the religious attitude taken by the compiler and the social conditions which reveal themselves through the laws betray the period for which each code was drafted.

But he, equally with all the others who accept successive editions of the law-book, is sure that one of these editions represents the programme of Josiah's reform. Whatever may be its past history, whatever elements in it may be of earlier date, whatever changes it afterwards received, there was a time when Deuteronomy was the Book of the Covenant discovered by the religious reformers in 621. And, as such, all its regulations were submitted then to a definite revision in order to make it what it then became—the means for securing the centralisation of the cult in Israel. And all the laws were then submitted to a careful revision in order to adapt them to this definite purpose.

Recently, however, a new movement has risen in connection with the book. It may be summed up as the attempt to see in Deuteronomy, not the programme or instrument of the reform in 621, but its product or deposit. The movement is to be seen in Britain, in America, and in Germany alike, and, from the mere fact that it has sprung up in all three quarters, it serves at least

to prove that the question of Deuteronomy is far from being satisfactorily settled. Since that question is the corner-stone of a certain school of modern criticism of the Old Testament, the significance of such a recognition cannot be overestimated.

It is not easy to present with entire justice the position here, since much of it is tentative and not clearly defined. It may be said, however, that what distinguishes the later movement is that all who share it insist that some of the laws which appear in Deuteronomy could only have been promulgated after the Exile. They differ in the number of the regulations which they would relegate to that late date, but they agree in denying that all the legislation of the book could be pre-exilic. Hempel allows that the ultimate edition was only compiled after the Exile. What, however, in his judgment the later men did was merely to bring the book into its present form. They brought together and arranged material which was already in existence. They may have added glosses here and there, but their actual contribution was and is negligible. The new movement takes a definitely different position. It insists that certain laws, included in Deuteronomy, must be post-exilic, and even that many of them are the outcome of the reform.

Thus, Professor Perry [1] in America and Pro-

[1] *Cp.* his article in the *Journal of Biblical Literature*, 1921.

fessor Kennett[1] in England insist that such a law as that about the king was impossible at the time when the kingdom was still in existence. To them it is the product of the later age which had lost touch with actual realities and was legislating without much regard to the conditions which prevail in the present world. To admit this is to admit that much more in Deuteronomy may be the product of the Exile. The most thorough-going advocate of this position is Professor Hölscher.[2] He has submitted the entire code to an exhaustive examination. Carrying out a line of criticism which was begun long ago by Reuss, he points out that many of the laws lay upon the worshippers demands which it was simply impossible to carry out, when Jerusalem was erected into the sole legitimate shrine for the country. The laws about the tithe, about the harvest festivals, about the firstlings lay down regulations which no man could obey, as soon as the one place at which he could obey them was the temple. Now, since the prime demand of 621 was precisely this erection of the temple into the only sanctuary, these laws cannot have been the work of the legislators of Josiah's time. Sane men, who were living face to face with the conditions and needs of their people, could not have required from these what every man knew

[1] *Deuteronomy and the Decalogue.*

[2] *Cp.* a long and thorough article in *Z.A.W.*, 1921.

to be impossible. The laws, therefore, must be regarded as the production of the exilic priests. Removed from the real life of their nation, engrossed in the study of the torah, these men lived among dreams. They did what such men are always liable to do—rode a principle to death. Laying hold of the new demand of the centralisation of the cult, and convinced that it was essential to the religious life of the people, they recast all the old regulations as to worship without any regard to whether, by thus imposing this new command on laws which were meant for quite different conditions, they were making a system which would work. Not content with recasting the old regulations, they also created new laws, such as the laws about the king and those about the conduct of war. These are of such a nature as to be wholly inapplicable, not only to Josiah's time, but to any time. They show, therefore, with the greater clearness the kind of theoretic dreamers by whom they were framed.

Hölscher's view has one real advantage in making the question of Deuteronomy much simpler. He is able to sweep away all the many editions and editors which are rather bewilderingly numerous in the discussions of other students. To use the language of the older Pentateuch criticism, he substitutes a supplementary hypothesis in place of a documentary hypothesis. We have before us, that is to say, not the combina-

tion of several documents into one final whole ; we have an early code which has been revised and supplemented by later hands. The most thorough revision, however, which it has undergone has been in the interests of the centralisation of the cult. That position, which was the supreme interest of the exilic priesthood, has come to dominate, even to the point of rendering it absurd and unworkable, the entire Pentateuch.

Hölscher's theory will be subject to criticism as it is open to it from many sides. The advocates of several editions of Deuteronomy will be able to point out how inadequately he has dealt with the difficulties of the introductory chapters. Reasonable men will have serious misgivings as to whether the exilic priesthood, facing the heart-breaking needs of their nation, amused themselves by passing laws which could never be carried into effect. Wiener has done a real service to Old Testament study by insisting that all laws are framed in order to guide practice, that they must always be judged in the light of their practical effects, and that they sometimes need for their interpretation the verdict of a lawyer even more than that of a theologian. We professors may be able to conceive of a body of priests, who, in the hour of their nation's agony, were placidly busy with the task of revising their national ritual in order to make it correspond with a pet principle. But we shall prob-

ably find it difficult to persuade anyone except our brother theorists that a nation ever adopted into its sacred legislation a code which remained so hopelessly aloof from its real needs. When Hölscher regards the body of law as drawn up in order to embody and enforce the centralisation of the cult, he makes it an unreal dream, and he also raises a crowd of new difficulties which appear insoluble and gratuitous. But one thing he has succeeded in bringing forward very clearly. If the code of Deuteronomy was intended to be the programme of the reformers in the time of Josiah, was it capable of being put into force? Could the regulations it lays down for the guidance of Israel's worship, as a matter of fact, be observed by the nation? If they could not, then the dilemma is clear. Either it is necessary to follow Hölscher in his further conclusion that the code is the deposit instead of the programme of the reform, and therefore post-exilic; or, if this method of meeting the question only makes confusion worse confounded, it becomes necessary to seek another solution.

The preceding sketch of the course of criticism does not pretend to be complete, either in the direction of mentioning all the work done on Deuteronomy, or in the direction of giving all the results reached. It has been drawn up to point one conclusion, and it will be sufficient if within its self-set limits it is accurate. And the

conclusion which results from the rapid sketch is that scholars are prepared to deal freely with the dates of the constituent laws of the book and with the date of its final redaction. They are prepared to set certain laws, even an edition of these laws, earlier than 621; they are content to consider whether some may not be much later. They disagree profoundly as to the period at which they set these laws. But they are all convinced that the code of Deuteronomy is dominated by the centralisation of the cult which was introduced in that fateful year. The book, as we have it, is the outcome of the school of thought which rejected all worship except that which was offered in the temple at the hands of the Aaronic priesthood. Whether the code is the programme or the deposit of this reform, it has been entirely revised in order to enforce it.

There is need for more radical examination of this position. For a generation Deuteronomy has been read as though it were a foregone conclusion that it was framed to insist on centralisation. But during that period there has been a closer examination of the sources, which has resulted in a better knowledge of Israel's history, and there has come a greatly increased knowledge of the cults which prevailed in other religions. It is necessary to ask again what were the controlling principles which guided the legislators who framed the laws which appear in chapters xii.–xxvi.

of the Book of Deuteronomy? Was the aim of that code to enforce centralisation of worship? Were the laws even revised with this in view? It is possible that the practical difficulties which attend the laws, difficulties on which Hölscher rightly insists, only arise so long as we obstinately refuse to think it possible that these laws never aimed at a solitary altar. It is possible that the need for multiplied editions may also disappear when the code is re-examined with no *parti pris* as to what its aim must have been.

That is what is attempted here. So far as possible, the laws are passed in review without any effort to interpret them in connection with Josiah's reform, but with the desire to see what exactly they demand. It is not easy to be quite unbiassed in an effort which goes counter to the work of a generation: but such a study may direct other men to a fresh examination of the book along the line which has been indicated. It seems also wiser to confine attention to the central corpus of law and to ignore at present the introduction in chapters i.–xi., as well as the closing chapters. These raise difficulties of their own, both in themselves and in their connection with the rest of the book. But, before these questions can be considered, it is necessary to determine the purpose and character of the central code to which the opening chapters serve as introduction, and to which the final

chapters could be fitly added. Since it is the central corpus of law which is dealt with here, the points raised by Spiegelberg [1] do not come under consideration. For these deal with xi. 4, xxviii. 49, 50, verses which belong to the introduction and the epilogue. It may be said, however, in passing, that the writer's confidence in Herodotus' account of the Scythians does not exactly commend his conclusions.

It is not necessary to examine all these laws. Some of them, such as the command not to take the mother-bird along with her young or the order to refrain from removing a neighbour's landmark, have nothing to do with the cult, and nothing to say on the question of its centralisation. These can be entirely omitted. The remaining laws are capable of being roughly grouped. First will naturally come those which deal directly with the cult, and which raise at once the question as to whether they aim at centralisation. These also, if they aim at centralisation, raise the question of date, since, should their commands be incapable of realisation, they are not likely to have been passed by the practical reformers before the Exile. There follow another series which, while they are not directly concerned with the cult, are concerned with the priests, the judges, etc., whose functions are supposed to have been changed by the reform of 621. These

[1] *Orientalistische Literaturzeitung*, 1923, 481–2.

have been grouped together and considered together. Again there are several laws, like that of the king, which do not concern themselves with the cult or its personnel, and which have not been modified by the reform as to centralisation, but which have been strongly pressed as proving the post-exilic character of the whole code. The order chosen is far from perfect, and the divisions are liable to cross each other. But it seemed better to group the material in some way rather than to work straight through the code from chapter to chapter. For, while any order into which the laws may be placed is sure to be unsatisfactory, none can be quite so bad as the order in which they appear in Deuteronomy to-day. Finally, an attempt will be made to draw certain conclusions which emerge from the previous examination of the code.

CHAPTER II

LAWS DEALING DIRECTLY WITH THE CULT

In considering the laws which deal directly with the cult, it might seem natural to begin at once with the series of laws which are found in chapter xii. These not only give orders in general terms about all the sacrifices, animal and cereal, but they show a special interest in the place to which these sacrifices are to be brought and so concentrate attention on the vital question as to centralisation. But the regulations in chapter xii. are not uniform in style, some of them have the second plural form of address, others have the second singular; they are not, as will be pointed out, self-consistent; and they betray such divergences in historical attitude and outlook that they cannot belong to the same period or to the same authors. Hence the chapter has been divided and assigned to different editions of Deuteronomy by those who hold this theory of the law-book.

It seems better to begin from a law as to the cult, which is uniform in character and about which all agree that its basis at least must be early,

however it may have been retouched to bring it into agreement with later views. It may be added that its demands are unique in Deuteronomy, *i.e.* none of the other codes contains a parallel to it. Such a law is likely to retain most strongly and to reveal most clearly the aims of the early lawgivers. Such a law is also fitted to show the meaning of some of the terms they employed.

There is, then, an order given as to the ראשית, the firstfruits of the ground, in xxvi. 1–11. In itself the regulation is simple and direct. The Israelite is commanded to take some of the firstfruits, to put them into a basket, and to carry them to "the sanctuary [1] where Yahweh thy God elects to locate His name." In the presence of the priest who is officiating at this sanctuary, he is to make a solemn confession. Because it is a confession of faith, the rubric to be employed is quoted in the text: "this day I make confession to Yahweh thy God [2] that I have come to the land Yahweh made oath to our fathers to give us." After the priest has taken the basket and set it down before the altar, the worshipper, standing also before the altar, must repeat after the priest a somewhat longer statement in which he

[1] So I prefer to translate. The מקום is not any casual place, it is a holy place, made holy through Yahweh locating His name there. It is the Arabic *makam*.

[2] Or better, with LXX, "my God."

acknowledges himself to belong to Israel and to owe nation, liberty, and land to the salvation of his God.

The outstanding feature about this regulation is that it prescribes a Yahweh ritual. In the short section of eleven verses, Yahweh thy God occurs nine times, Yahweh alone four times, Yahweh God of our fathers once. There is mention of the land which Yahweh thy God giveth thee, of the sanctuary which Yahweh thy God shall choose, of the altar of Yahweh thy God, of worship as offered to Yahweh thy God. The reiteration of the one divine name and the careful way in which it is added to everything connected with the simple rite grow wearisome to a reader, unless he recognises that the emphasis of the whole lies there. What the legislators command is that the reshith is to be reserved for, and offered according to the rites of, Yahweh, not Baal.

The peculiar intention of the phrase becomes more clearly marked, when it is observed with what features of the ritual the divine name is linked. The sanctuary to which the worshipper brings his offering must be one which is recognised as having none except Yahweh associations—His name has come to dwell there. The altar before which the basket is placed must be one dedicated to the same God. In the rubric which is repeated after the priest, care is taken that the Israelite shall acknowledge that he owes

everything to the one God of his people. He belongs to a nation, which was once insignificant, which owes its existence as a people to the act of its God. He lives in a land which is his God's gift, and his possession of it is a constant proof of his God's faithfulness. Above all, the fertility of this land is due to the constant care of the same God. The basket with its contents before the altar is the proof of his recognition of this care. The rubric is a confession of faith: his nation's life and his own personal success are dependent entirely on the grace of Yahweh.

In order to make sure that nothing irregular shall be introduced into the ritual and that no other god be acknowledged, the man is to bring his offering to the priest who is officiating at the special sanctuary. Because the commanding purpose of the ritual has been missed, objection has been taken to the presence of the priest. It is said that he has no real place given him, and verses 3, 4, which serve to introduce him, are accordingly omitted.[1] Yet the reason for the presence of the priest is clear. He must be there, because he alone knows the correct ritual of the Yahweh service, משפט יהוה. Above all, he makes sure that the correct confession of faith is made by the worshipper. That is the sense of "thou shalt answer and say" in verse 5, which follows immediately on the mention of the priest. In

[1] By Puukko, Hempel, and Hölscher.

an age which possessed no prayer-books, the priest is to supply the correct form to the illiterate peasant, who shall repeat it after him. The right words are as significant to an early generation as the correct offering. And after the offering has been rightly dedicated, it must pass into the charge of the lawful priest, for he knows what Yahweh has commanded to be done with it.

To note that nothing is said about the final destination of the basket and its contents brings forward the second, no less significant, feature of all this ritual. It is utterly vague on everything except the demand to reserve the offering to Yahweh and to present it at His sanctuary and after His order. Thus nothing is said as to the amount of the reshith. It cannot be the tithe, for it can all be put into a basket, and can easily be handled by a single priest. Yet the tithe of many a well-to-do farmer in old Israel must have been much too large to be dealt with in this fashion. Nor is anything prescribed as to the final destination of the offering. It may have been intended to return it to the worshipper, so that it may become the means for his rejoicing before his God. But that is a conclusion which must be drawn from other parts of the code. It certainly cannot be concluded from this particular law: indeed, in the ritual which this law prescribed, it is no natural conclusion. For an offering which was capable of being put into a

basket and handled by a single priest, would not cause very great rejoicing to a man and his household, with the Levite and uitlander, the widow and the orphan. What, too, does the reshith of the fruit of the ground include ? The first-fruits of the wheat and barley harvest without doubt. But the law cannot mean to exclude the produce of the orchard and the vineyard and the oliveyard. Is it then the wine or the fresh grapes, the oil or the unpressed olives, which are to be brought ? Nothing is said. No date is laid down for the offering. If, then, it is the fresh grapes and the olive berries which are claimed, are they to be brought with the wheat harvest, or separately ? The two harvest seasons do not coincide, and the law prescribes no date for bringing the reshith. It may then be connected with Pentecost and the grain harvest, or with Tabernacles and the wine harvest : or is it perhaps an additional demand which has no connection with either festival ?

Everything is left undetermined except one commanding principle. The reshith must be brought to a sanctuary which has only associations with Yahweh and offered after a ritual of His ordering. What the legislators seek to do is to lay down clearly this principle in connection with one particular type of offering, the produce of the farmer's fields. Yahweh gives that produce, and to Him alone acknowledgment of the gift is due.

In all this, it will be noted, the centralisation of the cult does not emerge. What interests the legislators is the character, not the unity, of the place of worship. The Book of the Covenant had already ordered every Israelite to build an altar of earth to Yahweh and offer there his animal sacrifices. It had also declared that "in every sanctuary where Yahweh records His name He will come unto" Israel.[1] Deuteronomy builds on this earlier regulation and commands Israel to bring the firstfruits of the field to the same type of sanctuary. But it does not, any more than the Book of the Covenant, demand a solitary place of sacrifice. Dealing with a people which lives in more settled conditions, it regards the sanctuary also as more settled. Yahweh has located His name in certain places; and these are reserved for His worship. To these must be reserved also His people's offerings.

The post-exilic generation did not make any change in this early law: they did not need to change it. What they did was to reinterpret it. To them there was only one sanctuary where the holy name dwelt permanently, and what was obvious to them must have been intended by the phrase from the beginning. We have unfortunately grown accustomed to read the older regulations through their eyes. But it becomes necessary to recognise that so to interpret the

[1] Ex. xx. 24.

clause is to fail to see the reason for its use here. The sanctuary where Yahweh elects to locate His name need not mean only one sanctuary: it must mean a shrine reserved to His honour. Since then the latter sense is the one which agrees with the whole tenor of the law, it is what the lawgivers meant.

To recognise that the purpose of the law is to reserve all the firstfruits of the fields for Yahweh is also to recognise the reason for issuing such a demand, and to determine at least approximately its date. As soon as Israel had left the desert-life and settled securely in their new country, they found it natural to ascribe its fertility to the local deities, and were tempted to give some recognition to the gods of the springs and the hills, whose anger might keep back the rains or send mildew into the crops. As shepherds, they had been accustomed to bring the sacrifices of their flocks and herds to Yahweh, and the earlier legislation prescribed these offerings.[1] Now they needed to learn that He claimed the recognition of how everything came from Him.

Again, the purpose of the law is Hosea's theme in his second chapter. The prophet insists that Yahweh, not Baal, was the giver of corn, wine, and oil, the products of the field. He also insists that judgment is ripe, because the people, instead of acknowledging their God's gift of

[1] Ex. xx. 24.

these things, have used them as means of propitiating Baal. The law prescribes what the prophet teaches, and bases its regulation on the same principle. For, throughout his book, Hosea repeats that Israel owes its very existence as a nation, and after that its land, to the bounty of its God. The people were not a people till Yahweh chose them and made them His own. Palestine is the home to which He brought His bride. That is precisely the burden of the rubric which the priest dictates for the repetition of the worshipper. The imagery is not the same ; there is not present the prophet's favourite figure of Israel as Yahweh's bride. But the same fundamental thought is here of how the people owe their existence, their liberty, their distinctive life, and their land to the blessing of their God. To Him, and to Him alone, their grateful recognition is due.

Whether the prophet precedes the law, or the law forms the theme for the sermon, is a matter which is not easily decided. It is always difficult to determine, when two closely parallel lines of thought appear in different documents, which of them is earlier in date. Students are apt to bring to their examination of the question *a priori* considerations. In this particular case men will be greatly influenced by the dictum that prophecy always precedes law, or by the opposite dictum that law furnishes the theme for

the prophet. It is wiser to make the effort at a more objective standard. Now the remarkably general terms in which the law is couched seem to point to its priority. For Amos appeared at a Yahweh sanctuary, and described there the careful way in which men dealt with their tithes. His generation was well acquainted with a law about vegetable offerings which determined their amount. Jeroboam is said to have arranged the dates of the festivals at Bethel so that they should not coincide with those at Jerusalem. His generation was familiar with a law which appointed exact seasons for its festivals. Hosea threatens that their God will bring to an end Israel's feasts, new moons, . . . and festivals. The ritual must have been developed and regulated when such a threat was natural. Accordingly it seems a natural conclusion that a law which is content to demand that all the reshith shall be reserved for Yahweh, but which says nothing about the occasions when it is to be brought, or the amount which is to be brought, or its destination after it has been brought, must be very early. It was framed at a time when it was still necessary to emphasise that the firstfruits of the field-produce must be reserved for Yahweh alone. Only after that had been decided did it become further necessary to enter into more definite regulations on the subject. Accordingly it is probable that this law cannot be later than

the period of the early kingdom, and may even belong to the time of the judges. Its points of contact, however, with the teaching of Hosea show that, whatever its date, it reveals interesting and suggestive analogies with the thought of the prophets in Northern Israel.

Such a general utterance, however, while it was valuable in the assertion of a principle, was obviously unfit to regulate the habits of worship in a nation. So long as the aim of the legislators was to enforce the principle that Yahweh alone was to be acknowledged in connection with the produce of the fields, they could ignore the amount which the worshipper was required to bring. It made no difference whether a petty crofter and a wealthy landowner brought the same amount, or whether the landowner's gift bore no worthy proportion to his annual revenue. They had one aim in view—to emphasise that all gifts from the produce of the field must be brought to the right altar and devoted to the true end and after the correct ritual.

As soon as the general principle was enforced, it became necessary to define the amount which the worshipper was to devote out of his annual crop. Accordingly, it was decreed that he must tithe all the "increase of his seed," and must reserve it for the purposes of the sacrificial feasts, xiv. 22–27. These festivals may only be celebrated at a sanctuary which has none save Yahweh

associations, and are taken part in by the worshipper and his family.

When, however, the amount of the offerings was fixed, certain other questions instantly needed to be answered. While the general principle alone was in question, it was enough to say that the worshipper must bring a basket which held his reshith. When a tithe was demanded, he needed to know what was "the increase of his seed" from which the tithe was claimed. That is now defined: it is grain, new wine, and oil. Thus he not only knows the produce on which the dues are to be paid, but he brings them in their most portable form, and in the form which best agrees with their ultimate destination as providing the materials for the coming feast. The tithe-grapes would have been difficult to convey, and the tithe-olives would have been useless for the festival.

With the tithe of the field-fruits the legislators naturally associate the bekhoroth, the firstlings of the flock and herd. There was no need to insist on their being reserved to Yahweh in the ritual of chapter xxvi., for the Israelites were already accustomed to offer them to their God. But now when order is being given as to the use which is to be made of the tithes from the field-fruits, the mention of the festal meals at the sanctuary leads to the inclusion of the firstlings. They also were used for peace-offerings on which the

worshippers feasted. Perhaps, too, the primitive idea, which prompted men to set apart the earliest fruit of beast and field, the idea that these were possessed of a *tabu* and in themselves sacred, helped to make it natural to bring the two together. They shared the same sanctity and had the same destination. But it is significant how generally and vaguely the firstlings are mentioned. They did not need to Israel the same careful definition as the field-offerings.

Again, the demand for a tithe of all a farmer's revenues brought with it a new difficulty—the difficulty of transporting this to the sanctuary. In the earlier years of the settlement of the land, the matter was easy. Israel lived in enclaves among its Canaanite neighbours, and each clan had its own sanctuary which was within comparatively easy reach of all the members. But certain tracts, such as the plain of Esdraelon and some districts of Galilee, remained unconquered. Since they were in foreign hands, these districts naturally contained no Yahweh sanctuaries. When, however, the Israelites began to absorb their forerunners and spread into these parts of the country, it became a real difficulty to bring tithes to a legitimate shrine. Men living in the Esdraelon valley, along the vale of Dothan, or on the southern slopes of Galilee, at a time when roads were few and bad, needed the permission which the law gives, when their nearest sanctuary

was Shechem or Dan. Besides, the men of early times seem to have had a taste for journeying to distant shrines, since Amos describes the northern Israelites of his time going to worship at distant Beersheba (Amos, v. 5). Men are permitted to turn their tithes into money, which is then to be employed in the purchase of any food the worshipper prefers, and used for the preparation of a feast.

The legislators provide for the contingencies which must arise, so soon as the amount of the people's dues was fixed at a tithe, and so soon as the legitimate sanctuary became distant. But they do no more. This law, like that in chapter xxvi., is as noteworthy for what it omits as for what it includes. In particular, it says nothing about the time when the tithes and firstlings are to be brought to the sanctuary and to be consumed there. It does not even say that they must all be brought at one time and consumed on one occasion. The requirements of this law would be met, if the firstlings and the tithes were carefully reserved from all secular uses, and employed solely for the purposes which are here defined. The mention of new wine and oil naturally suggests the autumn festival at the close of the year, and seems to connect it all with the celebration of the feast of Tabernacles. But that is merely another illustration of the difficulty every student has in reading Deuteronomy by itself

and without a constant importation of the centralisation at Jerusalem. When once the only sanctuary at which Yahweh located His name was the temple, the tithes must be brought at one particular period, and consumed at one festival. But when the law is read without this *parti pris*, it is seen to belong to a simpler time. In that simpler time David left Saul's court to take part in a festival at his father's house (1 Sam. xx. 29), Samuel arrived at a town to bless the guests and the food, when the inhabitants were celebrating a *zebah*, a festival (1 Sam. ix. 12). For such celebrations, which are not necessarily the annual major festivals, the tithes of grain and wine and oil, the firstlings of flock and herd were available; and for such celebrations this law says they must be reserved. They are *sacra*, not to be used for profane ends.

What led to the decision that the amount must be a tithe cannot be certainly known. Yet it is not without interest to notice that Amos addressed a community in which such a custom was already well-established (iv. 4). So old was it at the sanctuary of Bethel, that the institution was carried back into the hoary past and ascribed to Jacob, the ancestor of Northern Israel (Gen. xxviii. 19–21). The custom of the tithe may have taken its rise at Bethel, and from there spread to other sanctuaries: and this law may be intended to make it universal. Or what is given here may be

no more than the local practice, the "use" of Bethel. It is not certain that the code in Deuteronomy represents universal practice. It may be merely a collection of the ritual practices which were in vogue at the leading sanctuaries. But again it is of interest to note that we are brought into connection with the practice of Northern Israel.

Throughout the discussion of the passage the law has been accepted as it stands, and an effort made to interpret its aim from its actual terms. This, it must be added, is not the usual practice. Since the law is supposed to be one for tithing the produce of field and orchard, exception has been taken to the presence of the firstlings of flock and herd. There is a prompt and easy method of dealing with such "intruded matter." All that needs to be done, in order to restore the original, is to cut out the offending clauses and call them glosses. Puukko, Hempel, and Hölscher remove all reference to animal firstlings in verse 23. It is true that verse 26 permits the money received from the sale of the tithes to be reconverted into animal offerings which are to be eaten at the festival. Hölscher, accordingly, more logical than the other two, cuts out the second part of this verse also.

Against such treatment of any ancient text it is necessary to make a strong protest. The only scientific method of dealing with an early docu-

ment is to take it as it stands, unless good reasons can be advanced for suspecting any phrases in it. The text thus obtained determines the intention of the men who wrote it. To determine first the purpose of the document and from this to reconstruct its text is not criticism. Now the one reason which is advanced for removing these clauses is that they do not agree with an opinion as to the intention of the law which is supplied *ab extra*. Besides, if they are to be regarded as glosses, the phrases must have been supplied for some reason and to serve some purpose. What purpose do they serve, or what reason was there for their being added? In the judgment of these critics, there was every reason for their not being inserted. The law, when freed from these additions, becomes clear and straightforward in its terms. It is only the additional clauses which introduce any uncertainty. They have merely served to confuse the plain sense of the passage. Surely men in later Judaism did not amuse themselves by inserting clauses into their sacred ritual, which only served to make these more difficult to understand. The excisions are made because of a theory as to what the law ought to have said. Yet the sole guide as to what was the intention of the law is to find out what it does say. When the law is read as it stands, it is self-consistent and definite. It prescribes the amount of certain offerings, because

their amount needed to be defined : it associates with them other offerings of a similar character and with an identical destination, which were already known and did not need such precise definition : it then orders that all these are sacrosanct and must not be turned to profane uses. That may offend the opinion of a modern student as to what a law on the subject ought to have commanded, but such an opinion is no scientific ground for altering the text.

To what period, then, can this regulation be referred ? Accepting the interpretation which the later priesthood put on the sanctuary where Yahweh elects to locate His name and regarding that as Jerusalem, most students have referred the law to the time of Josiah and regarded it as transferring all the tithe to the temple. Then the permission to turn the tithe into money has been considered a new arrangement to make practicable this change. The priesthood met the difficulty which centralisation produced by making this concession. Obviously, too, if the legislation was passed to meet the concentration of worship at Jerusalem, the time when the tithe was consumed must have been one of the great festivals, probably the feast of Tabernacles. Men could not be expected to come more frequently to the temple than at the seasons of the appointed feasts ; and since the law deals with the tithe of the produce of olive and vine, the natural season for bringing it

was the close of the year at the celebration of Tabernacles. It is concluded that the permission of this new liberty to the worshippers is enough to prove that the regulation formed part of the programme for the reform under Josiah.

Yet this has only raised the new and more serious difficulty as to whether, while granting relief with one hand, the legislators did not set up an impossible demand with the other. How serious the difficulty was Reuss recognised long ago. " To consume in a single journey the tenth part of the entire harvest is an excessive demand (*chose excessive*), at least for families possessed of any wealth ; and the less wealthy would have been more than imprudent, had they wasted their supplies after this fashion, in place of prudently distributing their use over the whole year." [1]

Hölscher, recognising and emphasising the truth of this remark, has drawn from it the logical and inevitable consequence. This law, in the form in which it appears here never was, and never could have been practicable. The men who conceived and framed such a rule were not living face to face with the conditions in which a cult could function ; they were living in a world of their own and giving full play to their devout aspirations. What is set down here is not practical legislation but the pious dream of the later priesthood. Whatever earlier elements it may

[1] *L'histoire sainte et la loi*, ii. 307, n. 1.

contain, Deuteronomy in this regulation betrays itself, not as the programme, but as the deposit, of the reform under Josiah. It is post-exilic.

Now whether men, who, in whatever world they had come to live, had been in the habit of regulating their people's festivals and guiding their nation's worship, would employ their leisure in writing down and including in their sacred books rules which were utterly impracticable may be left to students of ecclesiastical human nature to decide. Whether, too, a law of this nature could only have been passed by the post-exilic men may well be questioned. For, if this thing be a devout imagination, it becomes impossible to set a date to it. Dreams, devout or otherwise, mock at dates. If a priesthood could include such a regulation in their law-book at all, they could write it into their reform programme.

What the criticism of Reuss and Hölscher forces on the attention is that it is necessary to revise all the premises. Hölscher has questioned whether, if the law was seriously meant, it agrees with the date of the Josianic reform: he has never questioned whether it agrees with the principle of that reform. Yet, as soon as the matter is examined from that side, it becomes clear that the entire difficulty is created by the attempt to interpret the law in connection with the centralisation of the cult. As soon as the section was read with that preconception, its

demands could only be fulfilled at one or other of the great festivals. Yet the law says nothing about the time when the tithes and firstlings were to be consumed, and all that it requires about the place is that they shall be consumed at a sanctuary which has associations with none but Yahweh. The difficulties arise, not from the law itself, but from the way in which it has been understood.

It is impossible to enter here into the uncertain question as to whether the third year tithe of verses 28, 29 was additional to the annual or a substitute for it; and fortunately it is also unnecessary. But the destination of this special tithe to the Levite as well as the uitlander, orphan, and widow, is of some significance, especially when it is noted that the needs of the Levite are also urged in verse 27 in connection with the annual tithe.[1]

[1] I have written "also" in deference to the opinions of most commentators, who unite verse 27 to the preceding verses. I agree, however, with Hempel and Hölscher in recognising that verse 27 in its present form seems to make a fresh start, and so connects more naturally with what follows, viz. the law of the third year tithe. Since those students are of opinion that the verse ought to be linked on to what precedes, they follow the LXX and omit לא תעזבנו, "thou shalt not forsake him." By this means the appearance of a fresh start is avoided, and the Levite is joined to "thy household" in verse 26. It is possible, however, that, when they omitted "thou shalt not forsake him," the LXX were merely conforming to the common phrase, "thou and thy household and the Levite." The fact that they retained the reason for not neglecting the Levite, "because he has no lot or inheritance with thee," rather points in the direction of the verb being original. In that case, verse 27 really begins

Such a regulation points to the law being early and belonging to a primitive condition. No provision is made for the priesthood out of the tithe, whether annual or triennial. But careful and repeated provision is made for the Levite. It is difficult to believe that, even in the hope of bringing the priests of the local sanctuaries to consent to surrender their duties and their revenues by the promise that they should have a share in the tithes of the faithful, the priesthood at Jerusalem passed a regulation which entirely ignored their own claim to any share in the tithes. Yet that is precisely what this regulation does. It was passed at a time when the Levites were the priests. What the legislators order is that the priesthood shall have their share in the annual tithes, their special claim on the triennial tithe.

Another slight indication of an early date deserves at least passing notice. Chapter xxvi. speaks about the reshith of the fruit of the ground: chapter xiv. orders Israel to tithe the "increase of thy seed which springeth from the field." Now a centralised church always creates a technical and uniform vocabulary, especially for its regulated ritual. It is no far-fetched conclusion

the new subject of the third year tithe, and emphasises that its principal destination is for the support of the clergy. Then their needs and claims are only mentioned in connection with this special assessment. It is noteworthy that the liturgy of xxvi. 12–17 with its solemn declaration that the tithes have been fully paid confines itself to the third year tithe.

that, where the language which describes the *sacra* is varied, there is as yet no centralised authority. Men are still in the position of using looser, even ambiguous terms. The divergence may point to the laws having been collected from different centres of worship, at which a different terminology was employed to describe the developing cult, or it may indicate a period before a central authority had arisen with its definite terminology.

But what about the sacrifices proper, the 'oloth or burnt-offerings and the zebachim or peace-offerings? This leads at once to the opening chapter of the code, chapter xii., which concerns itself principally with these offerings. Since it deals with these leading matters of the cult and, in dealing with them, is very explicit as to the place of sacrifice, it is of outstanding importance and deserves peculiar attention. The closing verses, however, turn off to a question which, though allied, is different in character. It is better to omit them and to consider only the opening twenty-eight verses.

The first thing that is clear, even on a careless reading, is that these verses are not a unity. Thus they are broadly divided into two sections by the fact that verses 1–12 are in the second plural [1] while verses 13–28 are in the second

[1] In verse 5, where M.T. in the final clause has second singular, ובאת, Sam. and LXX have second plural. Besides,

singular.[1] It seems advisable to begin with the latter section, because it, like all the laws which have hitherto been examined, is in the second singular. The purpose of these regulations is likely to be allied with that of regulations which appear in the same form. Here also the section is not a unity, but falls into two parts, viz. verses 13–19 and verses 20–28. The examination of their contents will bring out their difference.

In the earlier of these, verses 13–19, the situation of the lawgiver is clear from his opening sentence: "Take care not to offer thy burnt-offering at every sanctuary thou seest." It is the situation of early Israel for a considerable period after the conquest. In some districts they were in league with the Canaanites, living alongside them; in some they were still subjects of the older race; in some Israel was indubitably the master. But the country was studded with Canaanite sanctuaries, and at these the older inhabitants of the land were offering sacrifices which differed little in outward form from those of the Israelites. To none of

the clause is doubly suspect, since it is unnecessary and probably a mere dittograph of the opening words of verse 6. The second half of verse 9, again, is one of those current phrases in writing which a copyist might easily run into the familiar second singular: yet here again Sam. and LXX have second plural. The last clause of verse 7 is another current phrase which betrays itself as an intrusive tag by the fact that it will neither parse nor construe in its present position.

[1] The solitary second plural word, תאכלו, verse 16, is written second singular in the Sam.

these may a loyal Israelite bring his burnt-offering, but only to the sanctuary which Yahweh elects in any of the tribes. When he has brought it thither, he must also be careful to offer it as Yahweh commands, *i.e.* he must carry out his sacrifice according to the true Israelite ritual. Here it is unfortunate that the English version has rendered the phrase באחד שבט׳ך "in one of thy tribes," since this leaves the impression that the legitimate sanctuary can only be in a certain one of the tribes. Then this one among the tribes is taken to be Judah, and the command understood to imply centralisation. Now that this cannot be the sense is clear from the law about the asylum-towns. There direction is given as to what shall be done with the murderer should he succeed in making his escape to one of these towns.[1] Obviously the sense there is "any of the asylums." It can hardly be supposed that there was only one out of the three which was a legitimate refuge for each individual Israelite. If a man working in the shephelah committed manslaughter, he was not required to seek asylum in Galilee, though one of the towns for safety lay near him in Benjamin. Again it is said (xxiii. 17) that the escaped slave is "to dwell with thee in that place which he shall choose in one of thy gates[2] where it liketh him best." Here the closing phrase makes it clear that the

[1] אל אחת השרים האל. [2] באחד שעריך.

sense is "in any of thy gates." In the same way all that is commanded in our verse is that the Israelite must reserve his burnt-offerings to a Yahweh sanctuary, not that he must reserve them to a single shrine.

The purpose of the law is clear and explicit. Because the legislators are content to enforce a principle, they confine themselves to it and pay attention to nothing else. What the object of the burnt-offering may be, when it may or must be brought, how it is to be offered, what are the suitable animals for this special purpose—these are not their present concern. They know that there is a correct and an incorrect method of sacrificing, but they do not describe either. This implies either that the worshipper can count on finding at the sanctuary a priest who will guide him in the correct ritual, or that he knows for himself this ritual. But all these questions are ignored. The legislators are guarding against one abuse, the danger of bringing burnt-offerings to a heathen altar.

The law then proceeds to allow the practice of profane slaughter. Ordinary animals may be killed for food, and, when they have been killed, they may be eaten by any Israelite, and not merely by men who are in a condition of ritual purity. All that is insisted on in the matter is that the people must be careful to drain off the blood when the animals are killed. The permission is

put in the most general terms ; it is not set down as due to the distance from the sanctuary. Evidently the command to sacrifice only at a Yahweh altar has nothing to do with this new liberty. The law is making legitimate what up till this time has been unlawful—the use of the flesh of the domestic animals with the same freedom as that of the wild creatures.

Besides the burnt-offerings which were wholly devoted to the God on the altar, there were also the peace-offerings in which the worshipper had a large share. In connection with these, the legislators are content to repeat the law of xiv. 22 ff. The peace-offerings are taken from the firstlings of flock and herd, which were always *sacra* and which formed, as it were, the store from which the festivals and sacrifices at the sanctuary were provided. The mention of them naturally brings with it the tithe of the field-produce which was equally sacrosanct and was consumed on the same occasions. The legislators are content to order that these also may only be consumed at a regular sanctuary, and to insist with peculiar care that the needs and claims of the clergy shall be kept in mind.

The law forms a clear and compact whole. It opens very abruptly in its present position and has no connection at all with what precedes it : but it connects excellently with x. 12, 13, and would form an admirable beginning to a little

code. With such a position at the head of a minor code its general purport is in entire agreement. For what it orders is that all Israel's *sacra* are to be reserved rigidly for the service of the national God. Naturally the chief feature of these *sacra* consists of the burnt-offerings, no part of which remains to the worshipper. These above all must be brought to a Yahweh sanctuary and offered according to His ritual. As for the rest, they form the source from which the sacrificial feasts must be drawn. These also must be celebrated at a sanctuary which has none but Yahweh associations, and those who take part in them must rejoice before Him. When they are celebrated, the officiating clergy must have their share.

Further, the legislation is entirely untouched by the idea of the centralisation of the cult, and is early. Its early date is clear from two features. In the first place, those who drafted it were evidently conscious that their people were living in the middle of a Canaanite population which was still celebrating its own national rites. In the second place, they legalise the profane slaughter of the domestic animals. The need for such a law became evident as soon as Israel settled in Palestine. Up to that time, they had used the simple field altar of earth or unhewn stones. It was easy, in these circumstances, for any man who wished to slay camel, ox, or kid to slaughter

it in the correct ritual fashion.[1] As soon, however, as the people settled in their new country, and the old field altar gave place to the sanctuary which Yahweh elected, the difficulty arose that a man who wanted to entertain a guest, or even desired a specially good dinner, could not go to the new altar to slay his beast. The law permits freedom in the matter, and does not even require him to be in a condition of ritual purity before he uses the animal for a meal. At the same time care is taken that he pour out the sacred blood.

The following section, verses 20–28, which also uses the second singular, is a fragment taken from a larger source. It begins with the permission to practise profane slaughter, but only when the distance from the Yahweh sanctuary has become great. Thereafter the warning as to the treatment of the blood is emphasised with peculiar solemnity. The worshipper is given a reason why the blood is reserved from his use, and is adjured for the sake of his children's well-being to abstain from it. Israel is then instructed to bring all its *sacra* to a Yahweh sanctuary and to this alone. Yet in dealing with the animal sacrifices the law returns to the engrossing theme of how the blood

[1] Possibly the shepherd-folk once paid a special reverence to their domestic animals. The fact that they had always practised profane slaughter in connection with wild animals points in this direction. But in the lack of information as to the conditions of life among the semi-nomadic Israel it does no more than point to this as a possible explanation.

must be treated. Even in connection with the burnt-offering care must be taken that the blood as well as the flesh be placed on the altar.

The section is quite distinct from that which precedes it. The earlier law permits profane slaughter universally : this only allows it where the sanctuary is too remote for the Israelite to come to the altar. The language of the two laws is quite different. The earlier speaks of the tithe of corn, of oil and wine, the firstlings of flock and herd : these form the regular and ordered gifts which every worshipper must set apart to his God. Besides, there are the vows, free-will offerings and terumath yadh, " the heave-offering of thy hand " : these are the voluntary gifts of the individual. The later section speaks of thy *sacra* and thy vows, the things which in themselves and by their very nature are set apart for divine use, and the things which a man sets apart for private reasons of his own. The earlier law mentions only burnt-offerings among animal sacrifices, and says nothing about peace-offerings. The later knows a clear distinction between these varieties of animal sacrifice. The earlier section is content to order that the blood must be reserved from human use. The later gives the familiar reason that the blood is the life.

All this leaves the impression that the second law is not only later in position, but later in date.

The legislators are familiar with a more developed ritual and possessed of a more technical vocabulary. They are not content to enunciate a law : they seek to find its reason.

Again, the section dealt with is a fragment. It opens by stating a special case, a case which has needed and has given rise to peculiar treatment. Every such case requires to be preceded by a general rule, from which it forms a departure. Yet the general rule cannot be that of verse 13, for this has already permitted in every case the usage of profane slaughter. The law is a torso without its heading. What that heading may have been can only be deduced from the way in which the legislators seem to return to it in verse 26. After having permitted a relaxation of the regulation, they insist at the close " thy *sacra* and thy vows thou shalt carry to the sanctuary Yahweh chooses." They too were enforcing the general principle of avoiding all contact with heathen altars. The distance from the place of worship gives occasion to relaxation in a special case, but no more.

The other peculiar interest to the legislators is the destination of the blood. Their anxiety as to the relaxation of a strict rule is lest it may lead to carelessness in this direction. They even insist that the blood of the burnt-offering must be presented along with the flesh on the altar.

Now, if this permission to the people to practise profane slaughter on account of the

distance from the sanctuary was the outcome of the centralisation of the cult, the law, as it is formulated here, argues a peculiar mentality in the minds of the Jerusalem priesthood. We are required to believe that the men felt it necessary to insert this liberty in an old law, which was to be continued in full force. But they united this law with another which permitted profane slaughter in all circumstances: and they published these together at the beginning of their code as the new guide for Israel's worship. Not content with this, they combined with it a regulation as to the treatment of the blood of the burnt-offering, which had become ludicrously unnecessary at a time when they were transferring all these sacrifices to the superintendence of a centralised and professionally trained priesthood.

The legislation says nothing about centralisation, and points back to a period when the functions of priesthood and laity were not yet clearly defined, and when the careful avoidance of eating with the blood was in danger through contact with Canaanite heathenism.[1]

When the second-plural section (verses 1–12) is examined, it also is found not to be homogeneous. The most significant and easily recognised difference between the two laws which compose it (verses 1–7 and 8–12) is the situation in which

[1] It is very noteworthy that the charge against carelessness in this matter reappears with Ezekiel in Babylonia.

each writer conceives his people to be placed. This divergence is the more valuable for the purpose of our examination, because it broadly indicates the date to which the writer can be assigned. In verses 13–19 the legislator, by forbidding his people to sacrifice at every sanctuary they could see, shows that he was thinking of an Israel, which was indeed settled in Palestine, but was living in the midst of the Canaanites who were still so far from being broken that they possessed their own altars. But in verses 8–12 the people, in the matter of their worship, are commanded to give up the laxity which has hitherto characterised their practice. This laxity, according to which every man was doing what he pleased, was excusable in view of the transition state in which they found themselves. They have not yet reached the settled condition, the rest and inheritance which their God designs to give them. But, when that arrives, and when their wars have come to an end, they must be careful to sacrifice at none except a Yahweh sanctuary.

It is interesting to notice, in passing, that, though this writer occupies a somewhat similar position to that of the writer of verses 13–19, he differs in one remarkable particular. He sees the practice of his people to be very lax and so far agrees with the other. But he falls entirely out of the rôle which all the writers in Deuter-

onomy are careful to take up, viz. the position of speaking in the name and by the authority of Moses. To forbid Israel to sacrifice at any sanctuary they see suits quite well with the idea of Moses addressing a nation which is camped in heathen Moab. But to forbid the people to follow the bent of their own inclinations and to represent this as what they are actually doing at the time does not so well agree with the idea of a people which since it left Egypt has been under the guidance of Moses. Formally the writer has maintained the attitude of the law coming from the mouth of the great leader, for he speaks of what Israel is to do when it has crossed Jordan. But unconsciously he has slipped away from this attitude, and has revealed the actual position of the people among whom he is living. That position may be one of two. Either the law was issued under the early kingdom, when for the first time Israel won rest from its enemies round about and became securely possessed of its own land, when also it succeeded in creating an internal authority which was powerful enough to prevent every man from doing what he pleased. Or the writer was living in some period of confusion and disturbance within his nation.

The section with which the chapter opens (verses 1–7) has its own historical attitude which is radically different from that of all the rest. This law commands Israel to destroy every heathen

sanctuary and altar along with the emblems and instruments of idolatry. What the writer demands he must regard as being within the power of his nation. In order to be able to work their will on every heathen high-place, they must be absolute masters of the country and must have its inhabitants at their mercy. That is to say, the writer of this law takes the attitude of the last revision of the Book of Joshua, according to which Palestine was overrun and conquered by united Israel in one or two campaigns and thereafter the country from Lebanon to the Negeb was distributed by lot among the tribes. The Canaanites were so thoroughly broken that they could offer no further resistance, but must submit to the will of the conquerors. This is the late, unhistorical view of the conquest, based more on the theological temper of its own time than guided by the traditions of the past.

As the section has its own historical attitude, so it has its own religious demand. Definitely and uncompromisingly it orders the centralisation of the cult. The place to which Israel must bring all their offerings is no longer the sanctuary where Yahweh elects to locate His name, nor is it the sanctuary Yahweh elects in any of the tribes: it is now the sanctuary which Yahweh your God elects from among all your tribes to set His name there. This is the principle which the legislators have in mind, and they make it central

and dominant. To this shrine Israel must bring their burnt-offerings and their peace-offerings, their tithes, the terumath yadh, their vows and free-will offerings, and the firstlings of flock and herd. Nothing is excluded.

Certain remarkable features characterise this law. One, which has already been noted, deserves to be emphasised. It is late and is proved to be late, not by the character of the law itself, but by the historical attitude of the writer. We have not sufficient data as to the history of the cultus in old Israel, such as can authorise us to pronounce with certainty that certain practices must be early and certain others are later. The date here is deduced from the legislator's view of the history and method of the conquest of Palestine. He occupies the quite unhistorical position of regarding the conquest as complete and absolute.

The second feature of the law is that it is a little whole, complete in itself. It has no connection with what follows. And while it forms an excellent introduction to the code, it is not so integrally bound up with what precedes or follows as to produce any break, if it were removed. The section could be removed from where it stands, and the chapter would read as though nothing had been lost. In its rounded completeness, too, it enunciates a principle and is content to do this. There is only one legitimate sanctuary in

Israel, and thither the nation must bring all their offerings. The difficulties which such a regulation brings with it may be quite real, and may need to be met. But they are not in the writer's mind. They may be provided for in supplementary laws, which are afterwards to be added. Meantime the legislator is content to set prominently forward in its most sweeping and uncompromising form what he regards as the cardinal principle in the cult of his nation. The place in which it is set proves also its primary importance to its writer. For he begins with the general introduction: "These are the statutes and the regulations which you must carefully observe in the land which Yahweh the God of your fathers is giving you." The position in which he sets this command and the sweeping terms in which he enunciates it alike prove the high value which he sets upon it, and how indifferent he is to the consequences, if only he can lodge the principle itself in the prominence it merits before the minds of his people.

But, while the legislator enunciates his principle with unhesitating directness, he betrays by two significant omissions that he does not occupy exactly the position of the other laws in the code. When the worshipper is ordered to come to the central sanctuary, and there to rejoice before Yahweh his God, he is mentioned merely along with his house. Nothing is said which is exactly

parallel to the sons and daughters, the male and female slaves of the other laws. Centralise worship at Jerusalem and the festivals must have fixed dates. Fix the dates, and at once the entire household, if it goes at all, must go together at one particular time. Bring sons, daughters, and slaves together to the Pentecost festival, and the homestead stands empty at a time when some protection is urgently needed for its crop. Because the priesthood are no impracticable dreamers, they do not make such a demand even for one of the leading festivals. The law speaks only of a man and his house.

As significant is the omission of the Levite. Whenever the other laws commanded the Israelite to rejoice at his feasts before his God, they were also careful to order that the needs of the clergy must be remembered. In that older condition of things the rights of the officiating priest were very ill defined. But with the centralisation of worship the priesthood has become a caste which has its sure position and its guaranteed revenues. And, when it enunciates the principle which desecrates the local altars, it has no care for the priests at shrines which have now been declared illegitimate.

So far, it will be observed, nothing has been said in these laws about the period or periods when the people's offerings, produce of the field or sacrifices from the flock, voluntary or statutory,

are to be brought to the sanctuary. There has been mention of occasions when men rejoice before their God, but there has been nothing said of fixed or regular festivals. The cult laws, which have been hitherto examined, would be fulfilled, so long as the community were careful to bring all their *sacra* to Yahweh, and to bring them to the sanctuary or sanctuaries which alone are legitimate. To say this does not imply the suggestion that the legislators knew nothing of regular festivals or of fixed dates at which these were celebrated. It is merely to insist again that the Deuteronomic laws need to be examined by themselves without reading into them what the student brings from other laws, which may be later and more advanced, or which may belong to a different cult-centre.

There is special need for such a caveat in connection with the sketch of a festival calendar, which appears in chapter xvi. and which calls for close examination. For here it is very difficult to confine attention to the aim, and above all to the limits, of what Deuteronomy orders on the subject. The calendar lays down the well-known three festivals in Israel. It begins, in verses 1–8, with somewhat longer directions as to the observance of pesach and matzoth, passover and unleavened bread. These are combined in an awkward confused way, and are appointed for the month Abib, because in that month Israel was

delivered out of Egypt. As to pesach, order is given that it must be celebrated at the sanctuary where Yahweh elects to locate His name: celebration at home is definitely forbidden. Further, the lamb must be killed and consumed at sunset, because this was the hour when the Exodus took place. In the morning the worshippers must return home. In connection with this sacred meal they must eat no leaven. Indeed during seven days they are required to eat matzoth in memory of the haste in which they departed from Egypt. Leaven is to be carefully removed from their homes during these seven days, and none of the flesh of the passover lamb may remain over until the morning.

Now the whole question of pesach as an early festival in Israel, its character, its origin, its purpose, its connection with matzoth is equally uncertain and attractive to students of the Israelite cult. Naturally this passage which deals with both festivals has been carefully compared with other laws in Exodus which deal with the same subject. But, while it is finally necessary to study together every reference to the practice, the first necessity is to isolate the Deuteronomic law, to recognise what it contains, and above all to recognise what it does not contain. Only in this way can the distinctive aim of this code be rightly estimated. Otherwise the gaps which appear in its description of the rite are uncon-

sciously filled up with matter drawn from the kindred legislation. It is necessary, when one is trying to learn the aim and purpose of the Deuteronomic law, to make a sincere effort to look at it by itself.

What is clear on the surface is that the legislators here are not instituting pesach. While they are careful to give certain directions as to the method in which it is to be observed, they take it for granted that the community not only are already practising the festival, but know in general how it should be celebrated. This fact constitutes the chief distinction between the law of pesach in Exodus and the law here. It would be possible, on the basis of the description in Exodus, to reconstitute the ceremonial and restore the rite. Without help from other laws, relying merely on the information given by Deuteronomy, no one could picture to himself how old Israel celebrated pesach. This is only set in clearer relief by noticing that the present law would be sufficient to restore matzoth. It might be the simplest and baldest form of " unleavened bread " which would thus be restored, but it would be sufficiently restored.

Again it is evident that the legislator sets store by the fact that pesach falls in the month Abib. We should be straining the language too far to say that pesach had been previously celebrated in another month and was now transferred to Abib,

or even that it had been permissible in another month and was now restricted to Abib. But we only do justice to the terms in which the law is drafted when we recognise that it stresses the fact of pesach falling in this particular month. The legislator values both the month and the festival which falls in it. And he values the month, because it is closely connected with an outstanding event in Israel's history—the Exodus from Egypt. He wishes the festival to be closely connected with this event.

These are subordinate features in connection with the law. But they are noteworthy, because they bring out clearly what is its principal demand and also serve to throw light on the aim and purpose of this demand. That pesach is left undescribed throws up more sharply the primary feature in the law. The festival must henceforth be celebrated only at a Yahweh sanctuary, and this is definitely set over against liberty on the part of the people to celebrate in their own homes. Either the legislators are introducing a wholly new feature into the rite, or they are forbidding a laxer practice which has been creeping in. Now the close connection set up between the month of celebration and Israel's national history shows in what interest and for what purpose the rite is restricted to the sanctuary. Pesach is Israel's festival in honour of Israel's God. It must be celebrated in the month which recalls the nation's

birth and beginning, and it must be celebrated at a sanctuary which has associations only with the God of Israel. The legislators are not interested in the unity of the shrine. They care greatly about the character of the sanctuary, and about Him in whose honour and at whose bidding the festival is observed. Pesach must be withdrawn from all danger of contamination by heathen practices : it must be observed after strict Israelite ritual.

There is, however, one other demand which the law makes. And its appearance here is significant, precisely because the legislators do not otherwise prescribe how the ritual is to be carried out. Had it appeared in Exodus among the numerous details which are there given, it had deserved less notice. Set here in a law which otherwise leaves the worshippers to follow an accustomed ritual, it demands closer attention. The worshippers are ordered to cook the flesh and eat it in the evening, and with sunrise to return to their own homes.

This feature of the law cannot have been added at a date when the whole was adapted to the new conditions of Josiah's reform. For the permission to remain only during a night and the command to return at daybreak are precisely the characteristics of the Deuteronomic pesach which must have made it peculiarly difficult and even impossible to observe, when the cult was centralised at Jerusalem. It must accordingly have been

part of the original regulation, and must be early. The aim of the legislators in emphasising this item in the ritual observance was to prevent the flesh of the passover lamb from being exposed to the risk of corruption. It had become sacrosanct: and men must not linger long enough about the sanctuary to make such corruption possible. Evidently this was a stringent regulation in connection with the correct observance of the Yahweh ritual, for it is noteworthy that everywhere great care is taken that the flesh of the lamb shall be wholly and rapidly consumed.[1]

As soon as we recognise that the legislators were laying peculiar stress on preserving the flesh from corruption, we see why the festival was combined with matzoth or unleavened bread, for leaven was regarded in old Israel as a form of corruption. Especially we notice that the two are closely combined in verse 4: "Leaven shall not appear in all thy territory during seven days, and none of the flesh which thou sacrificest in the evening on the first day shall remain until or in the morning." The two are set side by side. Hence Steuernagel seems wholly right, when he now retains[2] the whole of verse 3, where Israel is ordered to eat matzoth during seven days at this period. Because

[1] Compare Exodus xii. 8–10, 46.

[2] In the second edition of his commentary. Hempel and Puukko cut out all reference to matzoth, and think the two festivals were originally distinct.

the avoidance of all leaven at the festival and the consumption of the flesh in one night are definitely associated together, and because the care to prevent corruption in the flesh of the lamb is so prominent a part in the brief ritual, I cannot feel that there is any justification for cutting out anything from these verses. They all show the same motive, and it is a very primitive motive. The only reason which is apparent for separating the text, or for excising any clause, is an *a priori* theory as to the history of the two festivals in Israel. Yet to alter the text in the interests of a theory may be criticism, but it is not scientific. It is to tamper with the witnesses.

Clearly pesach and matzoth were early associated in Israel, for Ezekiel [1] takes their combination for granted. Clearly, too, early Israel was careful to avoid the presence of leaven or corruption in many of its offerings. Amos, when he describes how sedulously his fellow countrymen observed the outward ritual at Bethel, describes them as offering without leaven.[2] The law here insists on the common characteristic of the two rituals. It further supplies both of them with motives derived from the national history and from the great incident in its history which proved Israel to owe everything to the grace of its God. It connects the month in which the festivals fall with the

[1] xlv. 21.

[2] That is the evident meaning of מְחָמֵץ, Am. iv. 5.

same event. Its purpose is to make sure that pesach and matzoth shall be celebrated as national festivals, fulfilled in honour of the national God.

The conclusion is natural that, when the legislator gave order that pesach must begin at nightfall and end at sunrise, he was seeking to maintain the correct observance of the Yahweh ritual. And when he removed the observance of pesach from the homes of the people to an Israelite sanctuary, he did this, because the celebration at home was threatening its peculiar Yahweh characteristics and was even threatening to assimilate it to heathen practices of a similar character. What governed the lawgivers may have been no more than anxiety about correct ritual. They saw the flesh of the paschal lamb being treated negligently and provided against abuse by making a private into a public celebration. But there may have been a larger reason for the change. Abib was the spring month, and, as such, was a natural period for nature festivals. The Canaanites would certainly hold high festival at that glad season. They may even have had a celebration which was not unlike, in certain respects, the celebration of pesach among the Israelites. The legislators may have recognised that, so long as pesach continued to be celebrated at home, it ran the risk of being carelessly observed, and above all, of being assimilated to the Canaanite form. The fact that they insist on its observance

at a national shrine and supply it with motives borrowed from the national history certainly points to their having had these broader reasons for the change they made. But in our ignorance of the early Canaanite ritual it is impossible to dogmatise. This, however, is clear. The purpose of the law is again the familiar purpose: Yahwism versus Baalism. Pesach is and must remain Israelite. It must be celebrated at a national sanctuary. Its ritual must follow national usage. Its date and circumstances must retain the excellent memories of national history. And the sanctuary, the usage and the history are Yahweh's.

On the other side, this law supplies to those who regard the Deuteronomic code as having been revised in the interests of Josiah's reform, and as forming the programme of that reform, their most convincing proof. In the brief notice, 2 Kings xxiii. 21–23, which has been largely expanded in 2 Chron. xxxv. 1–7, it is said that a celebration of pesach was carried out by the king at Jerusalem in obedience to the book which had been found in the temple. The festival is further said to have been unique in all the history of Israel. And its unique character consisted precisely in the fact that it was celebrated at the central sanctuary and not in the homes of the people. Evidently, it is said, the regulation is an absolute novelty, the creation of the priest-

hood who desired to concentrate all worship at the temple, and who could not allow even this peculiarly family rite to continue. But this unique feature in the ritual appears only in the Deuteronomic code. The conclusion seems obvious and inevitable: the law of Deuteronomy is the programme of the reform.

The proof sounds entirely convincing, until it is tested. The first difficulty is that, if the law in Deuteronomy is regarded as having ordered the transference of pesach to the temple, both it and the celebration described under Josiah entirely disagree with the legislation which governed the later practice of the returned exiles. For, in the full description of the institution in Exodus, which did govern that later practice, there is no mention of the sanctuary at all; the rite is not only described but definitely prescribed as a household ritual at which even a priest is not required to be present. Accordingly, the celebration at the time of Josiah must have been unique in a double sense. Passover had never before been celebrated at the central sanctuary, and it was never so celebrated again. What, therefore, we are required to suppose is that the priests at the temple succeeded in introducing this novel regulation about passover into the sacred law. It was enforced on at least one occasion, and may have continued to be enforced during Josiah's reign. But the inveterate habits of the people proved

too strong, and even the Exile could not break Judah of its love for the ancestral ritual. When the priests found that it was impossible to enforce the Deuteronomic law, they did not withdraw a regulation which they are supposed to have created. They retained it, this command which they had been unable to enforce, though now it had become a mere record of their failure. And alongside it in the torah they inserted another law which contradicted the leading feature of its predecessor. The time when this was done was the time when the majority of the community were living in the city of Jerusalem, and when it was accordingly easier than it had ever before been to celebrate passover at the sanctuary. It was also the time when the authority of the priesthood was at its highest, since the exiles had returned full of zeal for their law. Is such a hypothesis credible ?

The law broke down, because it was found to be impracticable. On that Hölscher fastens. He insists that a ritual, which proclaimed that the people should remain only one night at the central sanctuary and must return home in the morning, never could have been enforced at the temple. What, therefore, we have here is another of the fantastic dreams of the priests in exile. The command to celebrate passover at the temple is a fresh example of the theoretical reconstruction of the entire ritual, in which the priests made

everything subservient to the supreme principle of the centralisation of the cult and felt no need to care whether the resultant ritual could be carried out or not. Deuteronomy is not the programme, but the deposit of Josiah's reform.[1]

But does this interpretation help at all? The old difficulty remains as strong as ever. The priesthood were so delivered over to impracticable dreams that they inserted in their sacred books a law which could not be enforced and never was enforced. They then drafted another which contradicted their first effort, and, in spite of the fact that the first had never existed elsewhere than on paper, they carefully preserved both. Besides, why did they insert or retain the particular clause which made their law impracticable, the clause, viz., which required the worshippers to remain only one night and to return home in the morning? It was unnecessary for their supposed purpose; it was no integral part of the centralisation of the cult; all that it did was to render the law impracticable.[2] Yet they set it down, a gratuitous absurdity, in their new code.

If, however, we examine the law by itself, without the interpretation of the sanctuary where Yahweh elects to locate His name which has been

[1] Of course Hölscher is face to face with the statement in 2 Kings as to the law having actually been observed in the reign of Josiah. So am I in a different way. But the critical examination of the account of Josiah's reform cannot find room here.

[2] Note that it is absent from the account in 2 Kings.

supplied by later Judaism, we find it capable of application. It becomes a law which reasonable men could impose and which Israel could obey. For it puts into the foreground that pesach is to fall in Abib, and thus be linked up with the great memories of Israel's religious past, that it must be celebrated at a sanctuary which has associations with none except Israel's God, that its observance must be hasty in order to avoid transgression of Israel's ritual, and that thus through avoiding the corruption of the flesh it is closely related to the feast of unleavened bread which falls at the same time and which again is a memento of Israel's deliverance. These things are ignored in the account of Josiah's passover, and what is emphasised as present at Josiah's passover is absent from Deuteronomy.

It may, however, be said that if this law ordering the celebration of pesach at a local sanctuary instead of at home was prior to Josiah's reform, it must have left some mark on the worship of Israel. Somewhere a ritual after this fashion must have been in vogue. Now there was one part of Israel whose practice conformed to this command, for it was the method of celebration peculiar to the Samaritans on Mount Gerizim. With them " the solemnity is a veritable haj or pilgrim-feast. The whole community proceeds to the place of sacrifice on Mount Gerizim. . . . The tents are pitched, and all eagerly await the

appointed hour, which occurs at sunset. . . . At sunset the sacrifice takes place, not on an altar, but in a ditch; the throats of the lambs are deftly cut by a young man, not by the priest. . . . When all the flesh is consumed, the bones, scraps, wool are carefully gathered up, and thrown into the still smouldering fire, until all is consumed." [1] "The point in the twenty-four hours at which the lambs should be slain is differently interpreted by the Samaritans and the Jews. The phrase which designates the time in Exod. xii. 6 is a peculiar one . . . between the two evenings: it is found only in the middle books of the Pentateuch. The Jews take this to mean the afternoon, from mid-day to sunset; the Samaritans regard it as meaning precisely at sunset." [2] Having guarded carefully against corruption in the holy flesh, the worshippers return to their tents in the morning.

Such a ritual, precisely because it is divergent from the practice of the rest of the nation, so far as that is known, can only be explained as the continuation of a primitive custom. It cannot be set down as the new practice of the Samaritans, when they reconstituted their ritual in the days of Nehemiah. For the community carried over as their torah the regulation of Exodus which prescribed that pesach was to be celebrated in the homes of the people. Montgomery, indeed,

[1] Montgomery, *The Samaritans*, pp. 37 ff.
[2] Thomson, *The Samaritans*, pp. 130 f.

mentions the interesting fact that part of the service "consists in the reading of the Passover lections from Exodus and ancient Passover hymns," [1] though he fails to note that they read the rubrics from Exodus in connection with a ritual which did not conform to them. Nor can it be set down as an imitation of Jewish practice with the purpose of setting up Gerizim as the rival shrine to Jerusalem, for by this time Jerusalem is supposed to have discovered that it was impracticable to confine pesach to the temple, and the men followed their own practice as to the hour when the festival began. The custom is the survival at Gerizim of the primitive ritual of the Deuteronomic code. In all essentials it follows Deuteronomy, where this diverges from Exodus. The law is another evidence of the connection between our code and the ideals and practices of Northern Israel. It may even reproduce the "use" of some Ephraimite sanctuary.

That the only part of Israel where the custom of celebrating pesach at the sanctuary instead of in the home was Ephraim makes highly improbable Hempel's otherwise attractive suggestion that pesach was originally Judæan, matzoth distinctively Ephraimitic. He notices the clumsy way in which the two festivals are combined here, and takes the customary and easy method of explanation. The law to him is the combination of two

[1] Page 39.

original sources. The legislators of Josiah's time were seeking to combine the religious practices of the two parts of the kingdom. Accordingly, they united the northern spring festival of matzoth with the Jewish pesach of the same date. There one welcomes the recognition of the possibility that the Deuteronomic laws do not all have the same *provenance*, but may reproduce the differing practice of several centres of worship. One specially welcomes the acknowledgment that there may survive in the code old rituals which derive from Northern Israel. But Hempel has ignored the insistence on the single night celebration, its purpose as preventing the corruption of the holy flesh, and its connection consequently with the unleavened bread. Nor does he recognise the significance of the Samaritan rite. Indeed, he makes that ritual with its distinctive features more difficult to explain. If Northern Israel adopted, not merely the celebration of pesach at the sanctuary, but its celebration in any form, for the first time at the period of Josiah, it becomes only more difficult to understand how they came to practise it in a form which is practically unique. It is possible to suppose that they adopted from Judah an alien festival; but it is hardly possible to believe that they observed this borrowed and alien festival after a ritual which is entirely their own.

It appears more natural to suppose that at one

period in Israel there were three annual festivals, all agricultural in character. There was also celebrated not as a public festival but as a family rite, passover. It too fell in spring and may have been connected with the fruit of the flock, as matzoth was associated with the first produce of the fields. At some period in Northern Israel passover was transferred to the sanctuary and naturally brought into combination with the festival which fell at the same period and had something of the same character. But, since passover was originally a private rite, it never gave its name to the festival, which always was called haj hammatzoth, the festival of unleavened bread.

The remaining festivals in the calendar do not call for so detailed an examination as has been necessary in the case of matzoth and pesach. The feast of weeks is prescribed in verses 9–12, where Hempel is probably right in omitting verse 12: "thou shalt remember that thou wast a slave in Egypt, and shalt carefully fulfil these ordinances." The second clause in the verse as to careful fulfilment of the ordinances is one of the common phrases of the code, and, as such, is liable to creep in. It is harmless, but seems scarcely appropriate in its present position. As for the duty of recalling the Egyptian bondage, the clause commanding it appears also at xv. 15, where it is singularly beautiful and appropriate,

since it follows on the passage which bids the people treat kindly their emancipated Hebrew slaves. Its connection with the feast of weeks, however, cannot be called very patent. The clause must be regarded as reasonably suspect, and in these circumstances it seems wiser not to insist on any effort having been made to connect the feast of weeks with the Hebrew tradition. It was left as a harvest thanksgiving ritual. It is, however, emphatically insisted that the thanksgiving is in recognition of Yahweh, that men are to give as their God prospers them, that their joy must be before Him, and that the celebration must be at a sanctuary which has associations with no other worship. The reason for this deliberate repetition of the one motive in so brief a law is not difficult to recognise. The agricultural festivals came to bulk more largely in Israel's life, when they settled in Palestine, and must have been peculiarly apt to seduce them to Canaanite practice and heathen ideals.[1]

While, however, the law is full and clear on this its main theme, it appoints no fixed date for the feast : it is to be celebrated seven weeks after putting the sickle into the standing grain. For the legislators are not post-exilic dreamers, but are living among their own people, and are perfectly alive to the conditions which govern both their life and their worship. They are quite well

[1] See what has been said of xxvi. 1–11, p. 31, *supra*.

aware that harvest neither begins nor ends in the low-lying plain of Esdraelon at the same date as on the higher table-land of Ephraim or Judah. Accordingly they no more think of ordering these two districts to go on haj at the same time than a Scottish Church would order the Lothians and the bleak uplands of Caithness to hold their harvest thanksgivings on the same day. It may even have reached their knowledge that harvest in a backward year is sometimes seriously delayed. And, if they are supposed to be legislating for all Israel, they leave each district to determine its own date, precisely as each parish church decides the Sunday for its own harvest thanksgiving. There is no fixed date, because there is no central sanctuary.

Because, too, the law has no single fixed day in the year for the festival, it can readily require that "thou, thy son and thy daughter, the Levite within thy gates and the uitlander, the orphan and the widow" shall have their share in the common rejoicing, and their share in the act of worship. For its requirement did not imply that the homestead was to be forsaken of all its protectors, when the barns were safely filled with the grain, but the ripening olives, grapes, and figs demanded peculiar care and protection against the depredation of beasts and thieves. Because the sanctuary was local, and because no exact period was determined for the beginning or the

end of the festival, the law was as practicable as it was beautiful. Wellhausen has said that one effect of the Deuteronomic legislation was to wrench the agricultural festivals away from the occasions in the people's life out of which they took their rise, and so to make a divorce between the national religion and the natural periods in the peasants' life which called for joy and gratitude. That is only true when the centralisation of the cult is read into the code. What the Deuteronomists in their own way were here seeking to do was to make it clear that the natural human joy must not bring men into contact with heathenism, but might itself be a joy before Yahweh.

It was centralisation at Jerusalem which inevitably led to the appointment of one common date for the haj without any regard being paid to the variation of the dates for harvest at the different localities. Since the connection was thus loosened between the celebration and the harvest, it became natural to seek for a new motive and connect the festival, not with the events of the agricultural year, but with another leading event in the national life. The appointment of a fixed date with the decision of the period during which the feast must last made it also impossible for the entire household, master and servant, to make pilgrimage. To command a farmer to do this was to ask him to risk the ruin of his grape harvest. Hölscher seems justified when he calls

this regulation an impossible demand, if the worshippers were expected to come to the temple. But his position demands not only that we should interpret the place where Yahweh elects to locate His name as Jerusalem. It also implies that we must read into the simple regulation of the Deuteronomic code a number of details about the date of the festival and the period of its duration which are not there.

The same thing is true about the feast of tabernacles, verses 13–15. No analogy is set up between the vineyard booths which gave their name to the celebration and the booths in which the people lived during their wilderness journey. No effort is made to obscure the association with nature, or to supply an additional motive from the national history. Only, while the joyous character is frankly retained, care is taken that the joy shall be in recognition of the bounty of Israel's God. No date is fixed beyond the date which nature appoints, "when thou gatherest in from threshing-floor and wine-press." The only new feature in this celebration is the order that the festival shall last for precisely seven days. Such a distinction between the feast of weeks and the feast of tabernacles was one which would never have occurred to men who were aiming at the centralisation of the cult, whether they were practical reformers under Josiah or dreamers in the Exile. To them it was surely indifferent to

set a period for one festival and to leave the other vague. The distinction was one which would only appeal to men who were living among their own people and who were alive to their conditions and needs. They recognised the wisdom of leaving the period of the earlier feast undetermined since, though the farmer had his grain secured, he had not yet gathered his orchard fruits. But when everything, wheat and barley, grapes and olives, was secure against the winter storms and the prowling jackals, the peasant's work was finished and his time was his own. It was natural to prescribe a period for this festival.

The feast calendar is concluded by two verses, verses 16, 17, which order that three times in the year all the males in Israel must appear at the Yahweh sanctuary, and that none may appear with empty hands. The three occasions are the haj of matzoth, the haj of weeks, the haj of tabernacles. Since they have cut out all reference to unleavened bread in the description of the first of these, Hempel and Puukko are compelled to cut out these verses also. In their view the title "haj of matzoth" betrays the later hand. They support the rejection of verses 16, 17 by the statement that the demand on all the males to appear three times in the year conflicts with verses 11, 14, which regard it as the customary practice that the whole household, down to the women-slaves, take part in the celebration.

Neither reason is sufficient or convincing. Thus the name given to the spring festival may have a sufficient explanation. If, as everyone allows, the regulation which transferred passover from the home to the sanctuary was the innovation in connection with the spring feast, it is difficult to see what other name could be given to it except the haj of matzoth. Passover had, up till this time, been always celebrated at the homes of Israel. Properly speaking, therefore, it was no haj, and involved no appearing at the sanctuary. When the legislators came to speak about an appearance at the sanctuary, they naturally used the name which involved and always had involved this feature. Passover was not yet associated in the minds of the people with the sanctuary. When, therefore, the order concerns itself with a visit to the sanctuary, it describes the first haj of the year in terms which brought out its connection with an appearance before the Lord.

As for the supposed contradiction in the matter of the persons who take part in the celebration, it simply does not exist. It would exist, if verses 16, 17 ordered that only the males might appear three times in the year before Yahweh. But the law does not do this: it permits the presence of all who desire or who have been accustomed to attend. What it requires is the presence of all males. If a Christian Synod were to issue an order that all regular

communicants must make their communions at Christmas and Easter, that would not involve that no others could be present at the celebration. All it would mean would be that there were certain religious observances which everyone who desired to be recognised as a member of the Christian Church was required to fulfil.

The habit of reading the Deuteronomic code with the attention constantly directed to the question of centralisation and with the mind dwelling on the later ritual is apt to blind the student to what is actually there. Shift the emphasis to where Deuteronomy lays it, see its demand that all the festivals are to be celebrated at the Yahweh sanctuary and after the true ritual, recognise that in one case at least a motive from the relations between the nation and its God is supplied. Then the aim of the final command becomes clearer. Every man in Israel who desires to remain a member of the *qahal*, the active community of his people, sharing alike in its privileges and its duties, must fulfil certain religious obligations. By being present at the three great festivals, with their definite association with the specific religious life of his nation, he must show his interest in and his desire to share the traditions and ideals of Israel. By taking part in the national ritual, he will deepen and strengthen the hold this faith has on him. It is not enough to obey the earlier laws, so far as they forbid the

loyal Israelite to share in a heathen celebration. He must three times in the year declare himself a member of Israel, and by taking part in the religious services of his people deepen the hold of its life upon his own.

CHAPTER III

THE OFFICIALS

An arrangement of the material which involves the separation of the laws about the priests from those which regulate the cult, it must be frankly acknowledged, is illogical and arbitrary: it is merely convenient. It was necessary to arrange in some way the laws which make up the Deuteronomic code, for they are of the most heterogeneous character, and, as they stand, seem to be thrown together rather than arranged. To have examined them as they stood would have entailed passing from the dues of the priests to the position of the prophets and thence to the asylum-towns. That would only have confused and irritated a reader, especially when he found himself a little further on embarked on a new discussion of the prophets. Yet any arrangement of the separate laws is sure to mean cross-division.

One reason why this must be deserves at least passing mention. Our modern civilisation believes it possible to distinguish between the civil and the religious spheres. To us there exists a

broad line of division between civil penalties and religious disabilities, between things secular and things sacred. The more primitive life of early Israel did not make these distinctions. When men went to war then, they consecrated themselves to its grim duties. War came under or closely touched the cult : the Lord walked in the camp to supervise it. When a man disobeyed the decision of the local court in connection with a dispute, he did not rebel against his lawfully appointed authorities, he rejected the Lord. A system of law, based upon principles which are alien to modern ideas, has a unity which defies every effort to arrange it along modern lines.

Accordingly, when this chapter groups together the officials of the community and reviews the regulations as to the priesthood, the prophets and the king, it may succeed in setting the king in a certain isolation from all questions of the cult. But it cannot fail, in dealing with the priests, to touch on matters which must be considered elsewhere ; and so it must introduce some repetition. In spite of its serious disadvantages, this method of arranging the material has been deliberately chosen. By it we may succeed in reaching one end, which is valuable. To group together all the material dealing with the officials who represent and guide the life of any community serves the useful purpose of revealing the condition of that community. Particularly it shows

how far the community has succeeded in organising itself and where its difficulties are emerging. Now such knowledge has evidently something to contribute on the question of the date to which the legislation must be assigned. For this reason the king, though, as a civil authority, he has a much looser connection with religion, has been considered along with the priests and prophets, who are primarily religious authorities. It would also have been desirable to include here the references to judges and elders. But the notices about these are very few and very sporadic. And especially they do not occur by themselves, but merely in connection with other matters, several of which must otherwise be discussed.

A. The Priesthood

The priests, then, as officials of the cult, claim first attention. They also deserve it on another ground, because their position bears directly on the central question as to whether the code is the programme for Josiah's reform. If a profound change, which made the temple the sole legitimate altar and the Zadokite clergy the only legitimate priesthood, is the controlling theme of the Deuteronomic code, that must reveal itself at once in connection with the functions and rights given to priest and Levite. It may, then, be of advantage to collect the references and see

exactly what the code has to say about the priesthood.

First there appear the Levites. These are sometimes described as the Levite,[1] sometimes as the Levite who is within thy gates.[2] At times, however, though he is not expressly described as within thy gates, he seems to be included among a larger company who live there.[3] He is mentioned along with the household,[4] along with the worshipper and the uitlander,[5] along with the uitlander, the fatherless, and the widow,[6] and finally along with the household, the uitlander, the fatherless and the widow.[7] It will be noted that he frequently appears alongside the needy members of the community in connection with the tithes and the public religious feasts.

That this claim of the Levite is due to his poverty is made probable by the company in which he appears, and by the remark in three cases,[8] that he has no portion nor inheritance in Israel. Since the men are so constantly regarded as needing charity, there would seem to be something in their circumstances which debars them from ever reaching an independent position. We are back to a community in which the only

[1] xii. 19; xiv. 29; xvi. 14; xxvi. 11, 12, 13.
[2] xii. 12, 18; xiv. 27; xvi. 11.
[3] For example, xiv. 29; xvi. 14.
[4] xii. 12, 18; xiv. 27.
[5] xxvi. 11.
[6] xxvi. 12, 13; xiv. 29.
[7] xvi. 11, 14.
[8] xii. 12; xiv. 27, 29.

guarantee for independence is possession of land, the old condition of Israel in which society consisted of the men who owned and farmed their own land. The Levites were landless men.

Evidently, however, the men have a certain connection with the cult, so that their claim to share in tithe and festival rests on other ground than their poverty. Thus they are allowed a larger share in the people's religious charity than the other needy classes of the community. Their connection with the cult does not imply that they all officiate at a sanctuary: indeed, the majority may seem to live scattered within Israel's gates. But they all have the right to approach the altar. If any of them should resolve to devote himself to these sacred offices, he is not to be excluded on the ground that he has hitherto discharged no direct priestly function.[1] He is to be admitted to a share in the duty and to a share in its emoluments, like all his brethren the Levites. This regulation is the closing part of a longer one which defines what the priests officiating at the altar are to receive from the worshipper and which states that Yahweh has elected them out of all Israel's tribes to do this service. Evidently these priests are also Levites and are competent to sacrifice through being Levites, for it is as Levites, and not as priests, that they constitute a tribe from among Israel's

[1] xviii. 6–8.

tribes. Those who are already officiating at a sanctuary have no right to debar a fellow Levite from taking his place among them.

Again, there are two passages [1] which speak simply of the priests. In one case they are mentioned as combined with the judges for the administration of justice : in the other they appear as addressing the army before a battle. These verses give no information as to what constitutes a priest. What they show is that the functions of the priests were not confined to the altar. They also give an interesting illustration of the way in which Israel conceived justice and war to be mere methods in which the religious man did his work, not water-tight compartments with which religion had nothing to do.

Again, however, the priests are definitely described as Levitical priests,[2] as Levitical priests all the tribe of Levi,[3] and as the priests, the sons of Levi.[4]

In order to discover whether the law attaches any specific meaning to these titles, it is necessary to examine the passages *seriatim*.

In xvii. 9, then, the people are directed, should any legal difficulty arise which is beyond the experience or the competence of their local authorities, to go to the sanctuary which Yahweh

[1] xix. 17 ; xx. 2. I do not include xviii. 3, because the word there is merely a shorter form of the longer description in verse 1.
[2] xvii. 9, 18 ; xxiv. 8. [3] xviii. 1. [4] xxi. 5.

elects, and to submit the matter to the Levitical priests and to the judge. The reason may be that the civil and religious authorities at the greater sanctuary may have guidance to offer in the case. Out of their larger experience they may be able to bring some precedent which determines what ought to be done. But the mention of the sanctuary as the place where the court of appeal sits and the insistence on the priests' authority seem to prove that the last decision, should all else fail, lay with them. And their decision was given with the divine authority. How they arrived at the knowledge of the divine will in the matter is not stated. They may have employed urim and thummim, or some other form of the sacred lot. The code does not concern itself with that. It is not a handbook for the guidance of the priests as to the way in which they are to fulfil their duties. It is a law-book for the laity. The legislators are not endowing the priests with novel functions or with a new authority. They are confirming what the men already possess. They are not defining how the priests shall arrive at their knowledge of the divine decision: the men already know their business and how to carry it out. But, because it is the divine will which is thus declared, the litigants must accept it on pain of death for disobedience. What the code aims at bringing to an end is the quarrelsomeness of the country

village, where an unsettled grievance can eat like a canker into the life of a community and poison all wholesome relations among men for more than one generation. The mischief was worse in a country where justice had always been more than a little venal.

But the regulation makes two things clear. On the one hand, it reveals something of the conditions of its time. A community which needed such a law was hardly organised at all for the first needs of settled social existence. And the Levitical priests were men who were possessed of a special knowledge of the divine will, or of a special means of obtaining this knowledge.

In xvii. 18 the king is required, after he has reached the throne, to write a copy of this law in a book from before the Levitical priests. The exact meaning of the phrase is obscure. In particular, it is far from clear what these men's relation to the book "from before them" may be. Are they merely in charge of such a משפט המלוכה, such a "manner of the kingdom," as Samuel is said to have written in a book and laid up before the Lord?[1] Or have they the right and the duty to interpret or even to enforce it? All the law makes clear is that here also, in a matter which deeply concerned the welfare of Israel's life and religion, the Levitical priests

[1] 1 Sam. x. 25.

had it in charge to make known the divine will and possessed the means to learn it.

In xxiv. 8 the people are warned, in connection with the plague of leprosy, to obey the orders of the Levitical priests. This, of course, was not intended to invest the priesthood with any medical functions. Leprosy was regarded as a stroke from Yahweh and, as such, came directly under the cognisance of the religious authorities. These had the duty of determining as to the method of cure, and of deciding as to whether the cure was complete. Again, one need only contrast the curt brevity of the law in Deuteronomy with the long directions on the same subject which appear in the Book of Leviticus [1] in order to recognise the strongly marked difference between the two codes. Leviticus is largely a handbook for the priests, and accordingly it enters into full details as to how they must fulfil their task. Deuteronomy is a code for the laity, and is content with the emphatic order that Israel must obey in this matter the regulations of its priests. But again the same specific sense attaches to the title of the priesthood which is peculiar to this code. The Levitical priests are men who possess a special knowledge. And this knowledge concerns the mind of God toward His people, and the means by which His help can be most surely obtained and applied.

[1] Chapters xiii., xiv.

In xxi. 5 the Levitical priests again appear in connection with the peculiar rite of the heifer which was killed beside a running stream in order to atone for the blood of a man found murdered in the open fields.[1] The reason for their appearance is still found in their possession of a special knowledge. They are able to supply the correct liturgical formula which must be repeated over the slain heifer; and thus they make sure that everything is carried out after the mind of Yahweh. Knowing what His will is, they can prevent the people from doing anything which offends Him.

The phrase, Levitical priests, all the tribe of Levi, appears in the law which prescribes the amount of the priestly dues from the sacrifices, xviii. 1. It is easy to see that such a regulation was needed; and we fortunately know how early the need for it was felt. Already at the sanctuary of Shiloh the charge brought against the sons of Eli, according to the LXX, was that they did not know Yahweh and the priest's due from the people.[2] What the passage in Samuel shows is that a knowledge of Yahweh on the part of the priest involved a knowledge of the correct Israelite ritual, and in particular of his claims on the

[1] The passage is fully discussed at p. 144, *infra*. In particular reason is shown for not omitting mention of the priests in the rite.

[2] 1 Sam. ii. 12, where the Greek version reads ומשפט הכהן מאת העם.

worshippers. Deuteronomy recognises that the regulations which govern the ritual in this case must not remain in the private knowledge of the priesthood. The laity need to know them. The regulations about leprosy might continue to be the priests' torah : it was enough to say that the laity must obey orders. But, to avoid the unseemly wranglings at the Shiloh sanctuary, it was necessary that every worshipper should know what part of the sacrificial animal went to the officiant. Here again the Levitical priest is one who knows the correct method of conducting Israel's worship.

Finally the code contains two general descriptions which speak of the priest who stands there to serve Yahweh thy God,[1] and the priest who shall be there in those days [2] serving at the altar to which the worshipper is commanded to bring his reshith. Now the first of these two descriptions makes it clear that the phrase it employs is a mere variant of the Levitical priest who has been spoken of in the preceding verse 9. Hence it is natural to conclude that the priest "who shall be in those days" of xxvi. 3 is also a Levitical priest. And this conclusion is confirmed so soon as we note the context in which he appears. The theme of the law is that the worshipper must bring his reshith to a specifically Yahwistic

[1] xvii. 12.

[2] xxvi. 3, 4. See the full discussion on p. 27, *supra*.

altar. He must also give it through the hands of the Levitical priest, who shall supply him with the right form of words to be repeated over the offering. Otherwise the service might fail of its right effect. Once more the Levitical priest knows the right ritual which is to be followed at Israel's sanctuaries.

The first thing which is apparent in connection with all these passages is that none of them implies in itself, and none of them needs for its clear interpretation, the centralisation of the cult. The idea of centralisation may be imported from the outside, because of a preconceived view of what the Deuteronomic code must contain. And after it has been brought in, it can be forced on several of the laws. Notably it has been forced on xviii. 1–8, which enacts that a Levite " within thy gates " has the same standing at the sanctuary as the ordinary priests, should he express a desire to take up priestly duties there. It has been said that this was added to the original code at the time of Josiah. The priests at the local sanctuaries had been deposed from their sacred functions and had become mere Levites. In order to make it easier for these men to accept their novel situation, it was enacted that these priests who had now become Levites " within thy gates " might come to Jerusalem and take full share in its services. It is, however, very remarkable that the one law in Deuteronomy

which unquestionably demands centralisation [1] is entirely silent about the Levites. Its silence is all the more remarkable, because it stands immediately alongside another law of earlier date and of very similar terms,[2] which says nothing about centralisation and insists on the needs of the Levites. It is equally remarkable that, if this law was inserted to safeguard the privileges of the priests of the local sanctuaries, it was allowed to stand in the sacred code as the enduring record of a complete failure. For the local priests were never admitted to serve the altar at the temple, as priests.

The second thing which is apparent, when the laws are read without any reference to the Josianic reform, is that they reproduce certain conditions which prevailed in the life of the nation during the period immediately preceding and following the rise of the kingdom. There we hear of Levites scattered among the people, though they seem to perform no peculiarly priestly functions. They are not grouped in clan or tribe at any particular centre. Unlike the men who have their settled abodes on their land in their own clan, these men have no necessarily fixed abode. Such a man was the Levite who appears in Mount Ephraim according to Judges, chapter xix. After that fashion lived the young man of Bethlehem-Judah, who was a Levite, who is found

[1] xii. 1–7. [2] xii. 8–12.

living in Ephraim, and who describes himself as ready to live wherever he can find work.[1] It is in the same period that we hear of certain men of priestly race who were willing to hire themselves out as priests, if only they might thus earn something to eat.[2] Micah hires the vagrant youth who is looking for work and makes him his private chaplain. But the tribe of Dan tempt him away very easily to the more lucrative and dignified position of being their clan priest. These are the Levites "within thy gates," who, because of their poverty and their landless condition, are commended by the code to the charity of the people.

Yet these men had a certain undefined relation to the cult. They are not all employed at the sanctuaries, but they turn naturally to such duty when it becomes possible. When they do so turn and when their services are available, these are valued. Men who had no Levite at hand made shift without him, as the men of Kirjath-jearim did, when they lodged the ark in the house of Obed-Edom.[3] They consecrated one of his sons to serve the sacred object. Micah did the same when he instituted his private shrine.[4] But

[1] Judges xvii. 7–9. It makes no difference to this conclusion, though this story be proved to be the combination of two sources. The editor who combined them evidently had no difficulty in believing that a Levite might come from Judah and live in Ephraim.

[2] 1 Sam. ii. 36. [3] 1 Sam. vii. 1. [4] Judges xvii. 5.

when he had the opportunity of appointing a Levite as his private chaplain, he readily passed over his son. And he congratulated himself on his new acquisition: "Now know I that Yahweh will do me good, since I have a Levite as my priest."[1] There was a new security given to his sacrifices, since his priest would perform them after the true ritual. He knew what Yahweh demanded, and how it must be offered.

The code shows a certain development from this primitive condition, but it is a development which runs along the same lines. Private sanctuaries of Micah's type are being frowned at. They with their casual hedge-priests are dangerous. One such set up by Gideon became a snare. Men, therefore, must come to the sanctuary where Yahweh elects to locate His name, and, when they are there, must offer after the correct ritual. Naturally these larger sanctuaries, like that which Dan set up under Lebanon, draw to themselves the Levitical priests. As naturally these men, when they are thus in a securer position, begin to close their ranks against their brother Levites, the wandering men in the villages. They claim to be different in more than fortune from these others. The code finds it necessary to declare that the Levite within thy gates is still eligible for the priesthood. It also finds it necessary to commend all the Levites to the charity of the

[1] Judges xvii. 13.

people. For their means of livelihood is dying out. Once they were able to find employment, such as Micah offered, or at such local celebrations as that clan or family festival to which David went at Bethlehem.[1] But with the rise of the larger sanctuaries their plight became worse. Many of them may have asked to be put into a lower priest's office that they might at least have food.

B. The Prophets

The Deuteronomic code, however, does not confine the true knowledge of the divine will to the priests. Evidently it recognises that there are some matters which these cannot determine, and above all that there are needs in the people which they cannot satisfy. What these matters are which go beyond the competence of the priesthood, and what special needs are in view, it would be valuable to know more precisely. Unfortunately the law does not mention them, as indeed it is not the function of a law to dwell on such things. But, recognising the existence of the needs, it insists that these are satisfied in Israel by the prophets, and forbids its people to go beyond its own faith for satisfaction. Prophecy then has an assured place in the nation's polity, so assured that it is regarded as continuing the

[1] 1 Sam. xx. 6.

work of Moses. But, since prophecy is rather an incalculable force, the law seeks to define the character of the true kind, and has the courage to attempt its definition over against the false.

The regulations of the code on the subject are found in xviii. 9–22, xiii. 2–6, and these naturally fall into two sections. On the one side stands xviii. 9–14, which speaks of the needs of the people and of the way in which these are met by its prophets. On the other side stand xviii. 15–22, xiii. 2–6, which recognise the incalculable nature of the institution and seek to determine the character of true prophecy as distinguished from false.

Thus xviii. 9–14 deals with only one subject, the purpose and the place of prophecy in Israel. The people may naturally desire to know the future or to learn the divine mind on other subjects than those concerning which the priests are able to direct them. They may have been accustomed to satisfy this desire through augury or other means; they are certainly living among nations which offer all manner of weird means for contenting this permanent and irresistible human appetite. The picture of the ancient world, hag-ridden by superstition in connection with this matter, will occur to every student's mind. There are the Philistines terrified by an outbreak of plague which coincided with the arrival of the ark in their country. They turned at once to

their קסמים, their augurs, as the only men who could guide them in this untoward event. These gave the advice to set the ark on a new cart, to commit it to cows which have never been broken to the service of man, to separate the cows from their calves, and to leave them to go where they would. When the untoward and inexplicable event supervenes, man with his futile intelligence must stand aside and leave untainted nature to speak through the brute instincts. The will of the gods is best learned through the non-rational. Or there are the tablets from Babylonia, which carefully instruct men how to interpret the markings on the liver of a sacrificed sheep. The will of the gods in the conduct of the affairs of an Empire can best be learned through the way in which the veins happen to run across a beast's liver. The divine is found in the non-rational. How inveterate and long-lived the habit was reveals itself when one recalls how the Romans, that proud and royal race, kept their augurs and sent secretaries of state to watch solemnly the behaviour of the sacred chickens at their morning meal. The greatest state in the ancient world counted it possible to find the guidance of the gods on the highest questions by means of the appetite of a few hens. And though the augurs could not refrain from smiling at each other when they carried through what had become to them a solemn farce, they dared not break with the

practice. The instinct was too deeply rooted in the habits of their people, and the practice was too closely interwoven with their fundamental conceptions of God and His relations to men, for either to be safely ignored.

Now the characteristic note of all these rites is the same. The divine guidance can be most surely learned through the non-rational. When God is Pan, men learn His will best through the voice of nature, unspoiled by human interference, through the behaviour of milch-cows, through the flight of birds, through the casual marks on the liver of a sheep, through the appetite of chickens. The legislators of Deuteronomy know a great many similar methods of learning the divine will; and they draw out a list of them only to lump them together as deserving a common condemnation. These are the abominations of the nations. Israel for its part does not seek such means of obtaining the divine guidance. It does not need, for a prophet shall Yahweh raise up to thee, and to him shalt thou listen. Alone in the antique world Israel has the high honour of having broken with this entire system of thought with its means of approaching the divine. The reason is as simple as the result is clear. To Israel God was not Pan. He made and controlled all things, but His chief work was man. And when He told His will, He revealed it through His highest, not His lower, work.

It is of value to contrast the law with that which precedes it. The early law in Exodus [1] ordered: "Thou shalt not suffer a sorceress to live," and was content with this order. The weakness of such a purely negative command betrayed itself in the conduct of Saul. He put away out of his kingdom all who dealt with familiar spirits.[2] But when life darkened round him, his superstitious fears drove him to seek help from the very people he had expelled. The legislators of Deuteronomy are not content with a blank negative, and do not need to be. They are proudly conscious of the dignity of their own faith and of its sufficiency. Yahweh has provided for every need of His people, and He is sufficient for all their life. The position of the law-book exactly corresponds with that which appears in one of the Balaam-oracles: "There is no enchantment in Jacob, neither is there any divination in Israel: at the right time it is said to him what God doeth." [3] The period to which such a law can most naturally be referred is the one at which prophecy emerged most definitely into the national life and became a real influence on men's lives. The writer who supplied the little archæological note about the practical identity of seer and prophet in old Israel [4]

[1] Ex. xxii. 17. [2] 1 Sam. xxviii. 3.

[3] Num. xxiii. 23: the passage is assigned by Sellin, *Introduction*, to the period of the undivided kingdom.

[4] 1 Sam. ix. 9.

seems to have thought that it was in Samuel's lifetime the habit of inquiring after the divine will through the prophets began. And certainly with this period the position which the prophets receive in Deuteronomy is in best agreement. For they are not thought of here as the councillors of kings, or the defiant judges of priests. They are very much more homely persons, for common men are urged to turn to them instead of seeking help from augurs or enchanters. In the same way Saul's slave recommends his master to go to Samuel and ask his guidance for the errand on which they have set out. The prophet is very near the life of the peasant, and to him the peasant is directed to turn.

The law has, of course, practically nothing to say about the cult, but it gives more than a hint as to the main purpose of the Deuteronomic code. Again it is the old purpose, to assert Yahwism versus Baalism. Prophecy is put forward and commended, not for its own sake, but as a means of preserving the unique character of Israel's religion. Hence the law is put under a general order, verse 9 : thou shalt not live or act like the other nations. To seek after necromancers of any kind is to deny the fundamental postulate of the faith, that Yahweh is the all-sufficient guide of Israel's life.

It is easy, however, to command that the nation must listen to their prophets and turn a deaf ear

to the allurements of heathen necromancy. But what is the relation of the living voice of prophecy to the traditions of the past and to the faith out of which it itself has risen? The question was bound to arise. And that it not only arose but gave cause for serious thought is clear from the other sections of the law. Indeed, the fact that there are two separate sections in the code devoted to the subject makes it evident that the question was felt to offer a serious difficulty which was sincerely faced.

Thus the legislators in chapter xviii. turn at once to speak of it. In the earlier verses the prophet was thought of as a means for preserving Israel from the taint of heathenism. But in verses 15–22 he is rather regarded for himself. If his functions are described, they are not set over against heathen practice, they are dwelt on as defining his position within the nation. Israel, it is said, has refused the high honour of hearing directly the voice of its God, and has chosen to learn His will through an intermediary.[1] And as Moses was the intermediary at Horeb, so the prophet shall be the constant intermediary. At the same time the law recognises the perennial difficulty of knowing how to distinguish between the true prophecy and the false, between the prophet and the charlatan. And the ultimate test of reliability is

[1] Compare with this the attitude of chapter v. in the introduction, with which these verses plainly have some connection.

found in the man's whole-hearted loyalty to the God of Israel.

The law of xiii. 2–6 occupies very much the same position. Here I should cut out verses 4*b* and 5 as a later accretion. The sentence attracts attention at once by using the second plural form of address in the heart of a second singular section. And as soon as attention is directed to it, its character as well as its form strengthens suspicion. The law has spoken of the possibility of a false prophet winning authority by uttering a prediction which proves to be true. This sentence breaks off to explain how it can ever come about that a false prophet should be able to utter a correct prediction. The prediction must have come from God, since it has proved itself true in fact. God has allowed a false prophet to utter it, in order that He may thereby test His people's faithfulness. The writer's explanation runs much along the same lines as Micaiah's utterances before Ahab.[1] But obviously this is not law; it is theology. The theologian has not been able to refrain from adding a note on an interesting point. Otherwise, however, xiii. 2–6 agrees in the main with xviii. 15–22. Its ultimate test of the reliability of a prophet is found in his general agreement with the historic faith of Israel.

The weight in both laws is laid on two elements, on the general character of the prophet—whether

[1] 1 Kings xxii. 19–23.

he is whole-hearted in his allegiance to Yahweh, and on the consequent nature of his teaching—whether it tends to confirm the people in the same allegiance, or whether it draws them away to the recognition of an alien God. His predictions about the future are dealt with, but they are brought in at xviii. 15–22 as a kind of afterthought. And it is said that they are only to be counted valuable as a guarantee of his prophecy, if they should come true. If, however, the prophet appeals to them in order to lead the people away from the true worship of their God, say the legislators of xiii. 2–6, they are not to be given any weight even if they should come true.

This reveals, on the one hand, what was regarded as the great function of the prophet. Prediction of the future is a feature, and a very important feature, of his work. But it is not the only one, nor even the leading one. Indeed, in xiii. 2–6 his predictions of the future are only regarded as a means the man uses in order to commend his other teaching. He uses his knowledge of the future in order to make credible or acceptable as the divine will what he is urging the people to accept or to do. His general task is that of guiding the life of the community. The law of xviii. 15–22 puts this in the strongest form by saying that the prophet continues the work of Moses.

With this conception of his function, on the

other hand, agrees the test of his trustworthiness. Broadly the one criterion by which the prophet is to be judged is his agreement with the fundamental principles of the faith of Israel. These, it is taken for granted, are well known to everyone and can be readily recognised. Exactly what the legislators meant by "speaking presumptuously in the name of Yahweh" is not easy to determine. Perhaps the Deuteronomic legislators would have found it as hard of definition as certain modern ecclesiastical councils might find it hard to say what is the word of God which is said to be contained in the Scriptures of the Old and New Testaments. The section, xiii. 2–6, defines the matter a little more clearly, but, as often happens when clearness on such subjects is attempted, a little meagrely. The prophet must not recommend apostasy.

Plainly, when these laws were framed, the prophet was a living factor in the nation's religious life. He has a recognised place, and he has enormous influence on the largest questions. He can be compared to Moses. Because his influence is so great, he has incalculable power to do harm, if he should use his influence in an evil way. Hence a sincere effort is made to define the limits of his authority. But the whole weight is thrown on whether the man's teaching agrees with the fundamental principles of the faith. Who determine those fundamental

principles? Where are they to be found? Who have the power and the responsibility of checking an erring prophet? At what tribunal must he stand for trial? All these are questions which lie beyond the vision of the legislators of the code. They are content to warn the people of the need to test the prophets. In the early days of Christianity the forming churches were expected to test the itinerant preacher or prophet by the agreement of his message with the Gospel which they had received and by which they lived. It was a later generation in the Church which laid upon the bishops the right and the duty of testing the doctrine of strangers: the institution had arrived. When Amos appeared at Bethel and fulminated his denunciation against church and state in Israel, the priest was helpless before this portentous phenomenon. He sent a hurried message to king Jeroboam and appealed for help. But the ground of his appeal was that the prophet was teaching sedition and that things could not go on, if talk of this kind were allowed. When he bade the prophet remember that this was a royal sanctuary, he merely drew down a new burst of thunder on his own head. His only support to silence Amos was state authority. But in the time of Jeremiah, a man is found in Babylon who writes to the chief priest at the temple to the effect that he must have been neglecting his duty since he has allowed this troublesome prophet to

be at large and to poison men's minds.[1] The contrast between the helplessness of the priest at Bethel and the expected action from the priest at Jerusalem shows that experience has been at work. The institution has arrived, and, as usual, it has put a bridle in the mouth of the dangerous prophet. It is no far-fetched conclusion that, since the Deuteronomic code is still willing and eager to include the prophetic office as a living authority in Israel, and since it can supply no precise test for its sincerity, it belongs to the period when the institution had not yet arrived. The legislation dates in the period of the early kingdom.

To the same conclusion certain other indications point. Thus the prophet here is still paralleled to the dreamer of dreams. The law of xiii. 2–6 speaks about a prophet or a dreamer of dreams who may arise in thy midst. Apparently they are regarded as on the same level, or at least are counted equally legitimate guides. The law of xviii. 9–12 does *not*[2] include the dreamer in its list of those who practise forbidden arts. This attitude to dreams agrees with the attitude taken by that Ephraimite source from which many of the narratives in Genesis are derived. The

[1] Jer. xxix. 24–28.

[2] I underline "not," because Hölscher permits himself to say that in this passage the dreamer is condemned as illegitimate. Naturally, therefore, he draws precisely the opposite inference to that which is drawn above, and makes the law here post-exilic.

patriarchs are frequently represented as having received divine revelations in dreams. It is only when we come to Jeremiah [1] that we find dreams, as a means of obtaining a revelation, beginning to fall into disrepute. Now Jeremiah is far too individual a thinker for us to be able to conclude that, because he looked askance at dreamers, all the men of his time had reached the same position. But his distaste toward them does give the right to conclude that dreams were already becoming discredited in Judah. And certainly the Deuteronomic code is destitute of any such scruples, as destitute as the north country author whose work is preserved in Genesis.

When it definitely includes prophecy among the institutions which guide Israel's distinctive life, the code agrees in an interesting way with Amos. To prophet and law-book the prophets spring directly from the national faith and are its constant feature. Yahweh, says Amos, raised up prophets.[2] I, says Deuteronomy, will raise up unto thee a prophet. Amos, indeed, contrasts Israel with the Canaanites in this very matter. So far as the outward fate of the two peoples is concerned, they both owe their land to the guidance of the same God. Yahweh brought the Canaanites from Kir, as He brought Israel from Egypt. The outstanding difference in His treatment of the two nations is that He not only gave

[1] xxiii. 25–29. [2] ii. 11.

Israel a land, but that He gave them prophets and so told the nation what they were to do there. Now Amos is a singularly reliable witness in connection with the question of the origin of prophecy. For he lived at the time when it was becoming articulate and conscious of the task which it had to fulfil. He was likely accordingly to know the sources from which it arose. Besides he knew a great deal more about the Canaanite religion and its capacity to inspire so singular a phenomenon than we either know or are ever likely to know. To him it was perfectly clear that Yahweh raised up prophets as the distinctive thing in Israel's national life. To Hosea [1] the institution was fundamental, for by a prophet the Lord brought Israel up out of Egypt. The code says the same thing in its own way. By the constant succession of the prophets the work of Moses is continued in the nation. Therefore Israel shall have no traffic with the kindred institutions among the other nations, which pretend to satisfy the same needs. They must learn their faith through the men whom that faith has directly inspired.

But, as it is possible to parallel Deuteronomy's high estimate of the prophetic institution in the records of the early kingdom, so it is possible to parallel its strong sense of the difficulties to which its presence gave rise. For we possess, in

[2] xii. 14.

the collection of stories which have gathered round the name of Elisha, a singular instance of this. The tales are of the most varied character and value. They vary from a crude story of how Elisha recovered a lost axe-head to the beautiful record of how through his prayer one of his followers saw the hills of Israel the camping-ground of the angelic host of God. But all the stories have one engrossing theme. They deal with prophecy, what it is, what it can do, what are the functions it can fulfil in Israel and for Israel, what are the rights of the prophet and what are his limitations. The questions raised are answered in ways which are not always even consistent: but they are always real questions. Elisha is merely the name round which the stories are grouped. It is impossible to date them, either in his life or in connection with the history of the nation. For the stories are told about a king of Israel. Any king would serve the purpose of the narrator. And what the tales prove, what especially the fact of their collection and the fortunate fact of their survival prove, is the intense interest Israel then took in this remarkable and distinctive feature of its national life and religion. Men were thinking about it, were fascinated by it. They turned it this way and that to consider all its meaning.

The laws of the code are another deposit of the same period. They also claim a great place

for prophecy and prove how deep was the confidence the nation felt in it. It continued in Israel the work of Moses. Yet, though the gift is great, it is as perilous as it is great. *Corruptio optimi pessima.*

C. The King

The law of the kingdom is found in xvii. 14–20. Here the clause 16*b* is probably an addition. It runs: forasmuch as the Lord hath said unto you, ye shall henceforth return no more that way, *i.e.* to Egypt. The sentence rouses suspicion at once, because it uses the second plural form of address in a second singular section. This suspicion is deepened, when it is noted that the clause offers a different and quite unnecessary reason for avoiding intercourse with Egypt. The law forbids the king to send to Egypt for horses, as it forbids him to accumulate silver and gold. The trade is objected to, not because it is with Egypt, but because it leads to pride in wealth. Such trade with Egypt did not necessarily involve the settlement of Israelites in that country. But the clause objects to intercourse with Egypt *per se*, and especially to anything which might lead to Israelite settlement there. Probably the mention of Egypt has led an annotator to interject a quotation from a prophecy which in general terms forbade such settlement. If he referred to Hos. xi. 5, his reference was somewhat inept since

he ignored the direct statement of the same prophet to the effect that Israel was to return to Egypt.[1] It would be rash to conclude that the sentence is certainly derived from Hosea's or from any other prophecy, but in view of its incongruity with the rest of the passage it is equally unwise to draw any conclusions from it. It is justly suspect.

This regulation as to the kingdom has nothing to contribute directly on the question of the cult. Since, however, the king in old Israel was the anointed of the Lord and was always set in close contact with the religious life of the nation, the way in which his office is regarded here has a good deal to suggest about the aims and principles of the code. But before the content of the law can be examined, it is necessary to justify its inclusion in the early code. For it has been made an outstanding feature in the modern attack on the pre-exilic date of Deuteronomy. Perry, Kennett, and Hölscher all make its presence a leading support of their contention that the book in its final shape follows the reform under Josiah. And Burkitt, in his suggestion as to its origin, brings it later even than Deutero-Isaiah.

Here it seems peculiarly necessary to posit that, if we are to assign the law to any period in Israel's history, it must be regarded as more than a pious

[1] viii. 13.

aspiration. For, if we are dealing here with a merely theoretical utterance by a body of intransigent priests who have lost all contact with a real world, it is impossible to say whether the law was pre-exilic or post-exilic. The devout hopes of men who are not legislating for a state but embodying a spiritual ideal for their people's public life rather mock at the limits of time in any case. In this particular case, where the subject is not connected with the centralisation of the cult, but is intimately bound up with the qualification of the chief of the state, devout men in pre-exilic Israel might readily, working from the principle of the king being the Lord's anointed, have elaborated this conception of the Israelite kingdom in all its details. Indeed, since the law has nothing to say about the cult and deals with the secular head of the nation, it is natural to connect it with a time when the people were still possessed of an independent life of their own, and were able to appoint kings as their leaders.

When it is a question of whether the law could have been produced in the pre-exilic period, these scholars have hesitation in treating it as a piece of practical legislation. They isolate the feature which forbids the king to be a foreigner, ignoring its connection with its surroundings. They then insist that there is no evidence of pre-exilic Israel ever having hankered after a foreign ruler, or ever having been in danger of adopting such a king.

The demand, and with it the law of which it forms part, must be post-exilic. As for its suitability to the later date, that is easily decided. For then it is possible to fall back on the theoretic dreamers who framed theories of the government of a nation out of a few dogmatic convictions.

Yet it is obvious that one really cannot have it both ways after this easy fashion. Either this regulation is an act of practical legislation, or it is a theoretic fancy. If it is the latter, there is no reason why it should be dislodged from the pre-exilic period. If, on the other hand, it was meant to govern the actual life of Israel, and if we are to deny it to the earlier period of the national life because there is no record of Israel then having been in danger of having a foreign king over them, it becomes necessary to press for information as to the period after the Exile when the people were inclined to do such a thing. If the community in actual exile issued this law, they surely wasted their time, for their immediate concern was to know whether they were ever to have a king of their own again. By inserting this in their sacred books, they provided against no risk among themselves ; they merely drew upon themselves gratuitously the danger of being accused of sedition against their foreign rulers. If, on the other hand, it was the returned community which issued this, the folly was even more gratuitous, since the building of their walls had

already drawn upon them the suspicion that these Jews meant to rebel. The risk of men, who came back for religion's sake, ever setting anyone except a co-religionist over themselves is only a little less than the possibility of their finding a foreigner to accept so thorny a crown. Yet presumably it was necessary to warn off foreigners who desired the barren honour of ruling over a body of men, religious to the point of fanaticism, whose devotion to their faith was the only tie which kept them together on a barren hill round a ruined temple inside a shattered wall. Not content with this remarkable law, the poverty-stricken community, harassed by bad harvests and hardly able to keep themselves from despair, solemnly enacted that their king must not keep too large a harem and must not carry on a traffic for horses with Egypt in order to accumulate silver and gold. They even enacted that it was lawful to have a king, though the fame of David had sunk so deeply into their minds that they thought of their Messiah as a second David.

There may be a difficulty in the way of discovering the date in pre-exilic Israel, when such a piece of legislation was called for. But it is trivial in comparison with the difficulties which multiply upon us, when we try to find the later date at which it becomes even conceivable.

Of Burkitt's suggestion it may at least be said that it has the merit of offering a reason for

such a law being passed. He suggests that the regulation against having a foreigner as king is intended as a deliberate protest against Deutero-Isaiah's action in hailing Cyrus as Messiah. The Palestinian community, resenting such a heresy, set themselves in opposition to it, and enacted that no one might be expected or thought of as Messiah except a native-born Israelite.

It is certainly true that Deutero-Isaiah did say what may well have startled orthodox Jews, when he saw in a heathen foreigner the servant and the anointed of the Lord. But at least he did not depart so far from their fundamental convictions as to proclaim that Israel was to appoint its own Deliverer, for he had welcomed Cyrus as chosen and endowed by the Lord. If once orthodox Jewry came to believe that it was to appoint its own Messiah, that may account for the meagre equipment with which it endowed Him for His task. The older prophecy, which looked for Messiah as sent from God to bring His salvation, naturally endowed Him with gifts which corresponded to His function. He was to receive the spirit of wisdom and understanding, the spirit of counsel and might, the spirit of knowledge and of the fear of the Lord. If later Judaism believed itself able to appoint its own Messiah, it might well be content to say that He must not keep a large harem nor make money by engaging in a horse-trade with Egypt. Even Deutero-Isaiah

had claimed larger qualifications for Cyrus, but he was embarrassed by still believing that salvation was from the Lord.

We have not the right to isolate the feature of the law which forbids Israel to appoint a foreign king as though it stood alone. Not only does it stand alongside other features, a part of a larger whole, but it is integrally related to that whole, and can only be rightly estimated in its connection with it. There are three leading characteristics of the king who is here described. In the first place, it is stated that it is legitimate for Israel to have a king at all. This is the only sense in which we can fairly construe the opening sentence : when thou sayest, I would fain set over me a king like all the surrounding nations, thou mayest set over thee a king—then follow the limiting conditions. Here Steuernagel seems still to be wholly in the right when he says that such an utterance is not only closely connected with one of the accounts of the origin of the kingdom in the book of Samuel, but that it goes beyond it in accepting and approving the kingdom. In the historical book the prophet gives way with extreme reluctance to the people's wish. Yahweh is represented as calling the act of Israel no mere rejection of the prophet, but the rejection of Him. And, when Samuel does give way, he describes in the gloomiest terms what will be the inevitable result, without suggesting any means

by which it may be avoided. In the law-book Moses is represented as counting the desire of the nation to be legitimate : only there are conditions which must be observed. It also deserves attention that, while the other civil institutions of Israel are taken for granted, the kingdom alone is set up. We have no rules for appointing judges or elders.

There follow the two conditions which must govern the new official. The king must be such a one as Yahweh thy God shall choose. Being one of the divine choice, and owing everything to the divine authority, he must govern after the divine will, and, to know it, must make the book of the law his constant study. What exactly "a copy of this law in a book from before the Levitical priests" means is unhappily not clear. It may mean the Deuteronomic code : it may mean that manner of the kingdom, which Samuel is said to have written in a book and laid up before the Lord. In other words, it may have been the whole torah, or only some special ordinance which defined his duties and rights. At least the aim is clear. The king must be and must remain in sympathy with the peculiar religion of Israel and must govern after the principles of Israel's law. It is easy to represent this demand that the king must have and study the torah as the dream of the late priesthood which is supposed to have been engrossed in the perusal of its law. Yet

when Deuteronomy commands in another place that "these words, which I command thee this day, shall be in thine heart; and thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down and when thou risest up," no one has ever proposed to take the remark in its bald literalness. Everyone recognises that this is a vivid way of saying that every loyal Israelite is to saturate his mind in the principles of his faith and especially to remember that it involves an obedience which extends to all his actions. Partly the method of expression is due to a cause which every Hebrew student recognises. The language is ill-provided with general terms and words to express general ideas. Where a modern would write of "following the example" of good men, the Hebrew needs to write of "walking in their ways or steps." Partly also the use of such terms may have been prompted by the fact that the early books were intended for the needs of an illiterate people. Written concretely for humble folk, they still speak vividly to children and to all who remain childlike. What, therefore, the code lays down as a condition is that the king must remain loyal to the convictions which made the strength and constituted the specific character of the Jewish state. Even when the nation sets over it a king like the other nations, their king

is to be unlike any other king. He governs by other principles and is controlled by different aims, for he governs himself and his people after the mind of Yahweh. That is the connection in which the clause appears, forbidding the king of Israel to be a foreigner, and only when the whole is read together can its force be appreciated. No foreigner could fulfil the conditions which the Hebrew king was required to observe, for no foreigner could ever appreciate the life and distinctive character of the people he governed, or share the faith which pervaded all its institutions. Only one who had been reared in this faith could truly represent and maintain it, and could hope to fulfil the leading office in the state in the right spirit. The demand that the king must be no foreigner is not isolated in the legislation.

Finally, it is specially required that the king shall not be a second Solomon. This feature is so plainly written over the command about his refraining from a large harem and from a trade to Egypt for horses that it does not need to be insisted on.

Was there any period at which it was natural for men to state publicly that the kingdom in itself was a legitimate institution in Israel, but that, while it was legitimate in itself, it needed also to be strictly conditioned? These conditions are that the king must be and must remain in full

sympathy with the historic religion of his people, and, in order to be this, must be a native Israelite, but, while a native Israelite, must also be no second Solomon.

Hempel recognises that these curiously detailed conditions have no force after the Exile and throw us back into the pre-exilic period. Accordingly he dates the law under Jehoiachin or Zedekiah. He points out that at each of these periods there was a real danger of the Jews being drawn away into forming settlements in Egypt, as the Elephantine papyri prove, and that there was also the risk of another than a native king being set over Judah. But the clause about avoiding return to Egypt is, as has been pointed out, suspect; and, while its secondary character is only highly probable, it is not wise to build much on a dubious sentence. Besides, a law which declares the kingdom legitimate is a little pointless at that late date in Judah, where the king never lost the halo David lent the institution. But the gravest difficulty is to be found in the circumstances which prevailed at the particular date to which Hempel refers the law. Under Jehoiachin and Zedekiah Judah was involved in a death-grapple with the foreigner: in those two reigns the first and second Exiles took place. It is to be supposed that then the minds of men in Jerusalem had grimmer and more instant tasks to face than the enactment of legislation which

forbade their king to be a foreigner. The urgent question before the people was whether they were to have any king at all, or any state over which he might rule.

We must, I think, look to an earlier period in the history of the kingdom for the origin of this law. In so doing it is necessary to recognise not only its relation to the passage in 1 Samuel which describes the origin of the kingdom, but its remarkable resemblance to the teaching of Hosea. "They have set up kings, but not by Me," says the prophet[1] about Northern Israel. Thou mayest set over thee a king, but he must be one of Yahweh's choice and he must govern in the spirit of the national religion: such is the command of the law-book. The resemblance between these two utterances cannot be merely accidental. They show a similar attitude. The attitude is thoroughly characteristic of Hosea and does not merely appear in a casual utterance. He has much to say about the kingdom, and, in dealing with it, he continually insists on the necessity for the kingdom being of such a character as shall embody and maintain Israel's peculiar faith. To him the unique thing which is characteristic of Israel and which marks it off in its distinctive life is its religion. All its institutions must share this life, and serve to deepen it. Every institution of the nation is the outcome of

[1] Hos. viii. 4.

its peculiar temper, and makes that temper more dominant: and the peculiar temper of Israel is due to its faith. Hence Hosea is a "particularist" with an instinctive dislike to the foreigner. As has often been recognised, with him begins the idea of the nations as heathen. These are precisely the ideals which find their expression in the law.

The men of the early period of the Northern kingdom might naturally add the singular feature that their king must not be a second Solomon. For it was Solomon's foolish love of pomp which had brought about the collapse of the Israelite Empire after its short-lived glory, and the fatal division between North and South. Judah was longing for a second David, but Israel was dreading a second Solomon. His luxury and tyranny had brought about the disruption of the nation and had made Israel's kingdom legitimate. A prophet, Ahijah, had declared Jeroboam's rebellion to be prompted by Yahweh. But Israel's kingdom could only maintain its original justification, if it was careful not to throw up the same type of king which had given it its origin. Solomon's need for money to serve his ambitious projects had done more than lead to the break-up of the kingdom: it had resulted in that intercourse with the foreigner against which Hosea was careful to warn his people.

Further, there were special reasons for legis-

lators in the Northern kingdom laying down the condition that their king must be native-born. The first effort to found a kingdom there had been the attempt made by Abimelech; and Abimelech was a half-caste. The violent reaction under Jehu had been summoned into life because of the influence of Jezebel the Phœnician princess over her husband. Israel and Damascus, when they leagued together, were prepared to set a Syrian, Tabeel, on the throne of David. The Northern kingdom throughout its history was closer to the life of the larger world and more exposed to its influences than Judah. Judah sat apart on its eagle's nest among the hills. Israel had the great trunk road of the world passing through the heart of its territory: the country beyond Esdraelon and the districts across Jordan were strongly mixed with heathen elements in their population and greatly exposed to heathen ideals in their politics. Its law found it the more important to guard, as well as it might, against these influences.

It is easier to recognise that there is a connection between this law of the kingdom and the prophecy of Hosea than to determine which of them is prior in date. Was the prophet enforcing the principles of a law which was already familiar to the men he addressed, or did the law seek to enforce ideals which were first uttered by the prophet?

As has already been recognised, this question of the interrelation between similar Old Testament passages is singularly hard to answer, and any answer which is put forward must always be tentative. But there are two or three considerations which appear to point to the priority of the law. Thus the inclusion of the clause, which permits the election of a king at all, along with the definite condition that he must not be a second Solomon rather suggests an early date. The kingdom appears to be an institution which still needs a justification for its existence; and the law puts the kingdom under no less authority than that of Moses. If what is meant is the Northern kingdom, this will be the justification for its separate existence. In that case, the express authority is very natural. Again, the chaotic condition to which the realm was being reduced in the days of Hosea points to the same conclusion. All the information we possess both from the historical books and from the prophet shows that Jeroboam's new foundation was tottering to its fall. Hosea even denounces in Yahweh's name the dynasty of Jehu.[1] That was an unlikely hour for any legislators in Israel to appeal to the authority of Moses for the existence of their kingdom. It seems the more probable conclusion that Hosea sadly recognises in the confusion of his own time that one cause of the

[1] Hos. i. 4, 5.

corruption lay in the people's failure to recognise and to obey their own law.

The conclusion may not seem sure to all. But the connection between prophet and lawgiver is unmistakable; and again it turns the eyes of the student of the Deuteronomic code to Ephraim as the place where some of its peculiar legislation had its origin.

CHAPTER IV

MISCELLANEOUS LAWS

THERE remain to be considered a number of laws which do not naturally fall under either of the preceding headings. They do not deal directly with the cult, and do not therefore give any clear evidence as to the attitude which the code takes on the question of centralisation. But they touch intimately the social and religious practices of the nation and are thus brought into close relation to the subject of this study.

For it is obvious that so great a change in the religious habits of a whole people as was brought about by the reform in Josiah's time must have produced far-reaching effects in many directions. Its influence could not be exhausted by the abolition of the local sanctuaries with the resultant transference of sacrifice and festival to the temple at Jerusalem. To give but one illustration, the local sanctuaries filled a larger place and fulfilled a larger function in the life of early Israel. The priests there were not merely officiants at the altar; they were also expected to give guidance in judicial

questions, and to their decision were referred a number of local disputes. As soon as the reform deprived these men in the villages of their functions, it became necessary to make some provision for filling the gap made by their disappearance, if the life of Israel was not to be dislocated by the reform.

Hence those who hold that Deuteronomy was the programme for the Josianic reform believe that laws concerned with other matters than the sacrificial system needed to be, and were, included in the code. Some of these laws may owe their very existence to the change ; they represent new institutions which were created to meet the new conditions. Other older laws required merely to be modified in order to adapt them. In connection with these last it is believed to be possible to point out where the revising hand of the reformers has been at work, and, by a judicious use of the pruning-knife, to bring back the original, simpler form. The criterion which guides the pruning-knife is of course the introduction of the principle of centralisation. Here and there the law has been altered because Jerusalem was now the only legitimate sanctuary.

It deserves at least to be recognised that so patient an effort to fit into the life of Israel the reform which the men were intent on carrying out, and so practical a recognition of its widespreading influence do not agree very well with Hölscher's representation of a great part of the

code as the fanciful imaginations of post-exilic theorists. On the one hand we are asked to believe that the reformers were keenly alive to the difficulties which this change must create in all the habits of their people, and were conscious of the need to make the change possible without a hopeless dislocation of the national life. On the other hand we are told that men of the same school of thought were so entirely removed from every such consideration and so indifferent to consequences that in connection with the cult they passed a series of ordinances which could never be practised. Yet the men who did this belonged to the priesthood, and so were men whose chief business had been to regulate the conditions of festivals and to determine the sacrifices. They demanded absurd things in connection with the matters they best understood, but set down careful regulations as to the business with which they had least concern.

To leave this aside, however, it remains necessary to ask whether, in the series of laws which now fall to be examined, the regulations, as they stand, need for their explanation the theory that they have been recast to meet the new conditions created by the reform. It may appear that they are not only capable of explanation, but even clearer in their terms, without bringing in centralisation at all. It may also appear that one result of importing centralisation is to lead to arbitrary

and uncertain excision as glosses of what are integral elements in the laws, and so to failure to recognise their original purpose.

There is, however, no intimate connection to link together the regulations which are included in the present chapter. In themselves they are as heterogeneous as the life of the people which they were framed to guide. And the chapter will appear confused in its arrangement, or even destitute of any arrangement, if this underlying connection is forgotten.

A. The Asylum-towns

The first law which needs examination is one which is said to owe its very existence to the new principle of the centralisation of the cult. Here, accordingly, since the reformers are supposed to have written the section in its entirety, there is not much question as to gloss or revision. Nor does the matter turn round the interpretation of a clause here or there. The sanctuary is not alluded to throughout, so that centralisation must be brought in from the outside. The real question is whether for its right interpretation there is any need to bring in centralisation at all, and whether so to do does not pervert the real intention of the legislators? The law is that of the asylum-towns xix. 1–13.[1]

[1] It is unnecessary to enter into a discussion of the originality of verses 8–10. That question bears upon the relation between

The ground for the confident assertion that this law owes its very existence to the Josianic reform is found in a comparison between the command in Deuteronomy and that in the book of the covenant (Exod. xxi. 12–14). The earlier law prescribes that every murderer must die, but seeks to set up a distinction between homicide and deliberate murder. In the case of a man who has killed another by misadventure, "I will appoint a place, or a sanctuary, to which he may flee." As for the murderer by intent, "Thou shalt take him to his death from My altar."

At first—so runs the theory—every high-place in Israel was an asylum from the avenger of blood. If the homicide succeeded in escaping to such a local sanctuary he was safe and had the chance of a fair trial. If, however, the trial should prove that he had deliberately killed his man, not even the sanctity of the place was to save his life. This simple regulation was sufficient, so long as there were many high-places with their altars throughout the country. But, as soon as the local shrines were abolished and the altar of Jerusalem was the only one which remained, it became necessary to provide local places of asylum. As is definitely stated in the Deuteronomic law (verse 6), the way to safety became long, and the chances of the man's escape were seriously diminished. The

Deut., chapter xix., and Num., chapter xxxv., the two laws on the subject: it is of no importance for the present study.

three asylum-towns are instituted as a surrogate for the local sanctuaries.

It will be seen at once that this explanation rests on the presumption that the asylum which Yahweh is to provide according to the law in Exodus is the high-place and is practically identical with the altar from which the murderer by intent is to be taken to his death. The asylum is the altar, and every altar is an asylum. But is this a just interpretation ?

Wiener has already pointed out one difficulty which arises on such an explanation.[1] The altar, according to the law of Exodus, was a simple affair of earth or of field-stones. There was nothing then to prevent the murderer from scraping together a heap of earth or piling up a few stones, sacrificing at it, and giving this the title of an altar. Such a procedure would be sufficient to afford him protection. Yet, if this was all that was required, the solemn promise that Yahweh should provide a place of asylum becomes worse than pointless. The homicide needed nothing beyond what he could provide for himself.

My objection runs deeper. For the law in Exodus definitely states that Yahweh is about to institute a place to which the homicide can flee. Is this place the altar ? If it is, the only meaning of the passage is that now for the first time the altar is declared to be an asylum in Israel. Until

[1] *Main Problem of Deuteronomy*, pp. 12, 13.

this law was issued, the nation did not know or did not regard the sanctity of the altar in cases of murder. With all the knowledge we have of the existence of such sanctity attaching to the altar among early races, that in itself is not very credible. But, even if it should be allowed that now for the first time Israel extended the sanctity of the altar so as to cover cases of homicide, this fails to explain the peculiar character of the regulation. Why should it be said that a place of refuge was to be instituted, and then added that the murderer must be taken from the altar ? If the new sanctuary and the altar were the same, the obvious way to state such a law was to declare that Yahweh instituted His altar or a sanctuary as a place of refuge, but that even thence the murderer by intent must be taken. The law of Exodus does not equate the newly-appointed place of refuge and the altar. They are two. The new thing is not the sanctity of the altar ; it is the institution of this place of refuge. Only the law holds fast that its protection shall be valid for none except the man who has committed manslaughter. As for the wilful murderer, he shall be taken to his death even from the altar, as Joab was taken.

The nation is at the point of transition from the semi-nomadic life of the desert to the settled conditions in Palestine. In its new circumstances it is making its earliest effort to escape from the

desert law of blood-revenge. The first necessity is to distinguish between the murderer by intent and the murderer by misadventure, and, in order to make this distinction, it is essential to secure to the homicide the chance of a trial. But that he may be tried, the man must be able to live. The intention in setting up a place of refuge was not to provide a sanctuary where he could be safe from the immediate pursuit of the avenger of blood. It was to provide some place where he could live, until he was brought to trial. In the desert such a provision had been impossible. There a man had always been able to find a temporary refuge at an altar. But, unless his clan gathered for his protection, he was in evil case with the blood-avenger watching at hand. Accordingly it was provided that the poor wretch was not to be left, not daring to leave the protection of the altar, till he was starved out. In the new asylum he could at least be secure, until the trial had determined as to his guilt or innocence. Should his guilt, however, be proved, nothing was to save him.

On this primitive sketch the Deuteronomic law is based.[1] The first change demanded arose from the recognition of the new circumstances. So

[1] How closely the two laws are connected may be seen even from the fact that both use the word רע or neighbour, instead of אח, or brother, which is the more customary designation for fellow-Israelite in the Deuteronomic law.

soon as the whole land was conquered, and Israel had spread from Dan to Beersheba, a solitary asylum was plainly insufficient. The way had become too long (verse 6), and two more towns were added to the original place of asylum. But in other respects also the earlier law was inadequate. It had been content to lay down the broad principle which was to govern all such procedure. It provided for the homicide a place where he could live, so that the promise of a trial might not be a mere farce. It decreed that the new asylum was only valid in cases of manslaughter. But it set up no machinery for carrying out the trial, and in particular it gave no guidance in connection with the execution of the sentence. Yet some decision of the latter question was specially important, if the dreadful practice of blood-revenge was to be checked.

Some of these questions the new law seeks to decide. And those which it does decide and the way in which it decides them show what was its commanding interest in the matter, and hint at least as to the period when the law was passed.

Thus the trial of the case is committed to the elders of the man-slayer's town. Should the man be proved guilty, they are to deliver him over to the avenger of blood for execution. Israel is still struggling up from the condition of being under lynch-law. The people are seeking a means of putting an end to the practice of the blood-feud.

That is why it is the elders of the guilty man's town who deliver him over for execution. When the avenger of blood slays the man, he is no longer carrying on the blood-feud, he is executing the orders of the murderer's own clan. After this they cannot pursue the blood-avenger who has been merely their instrument for fulfilling their order. The habit of the past, which recognised the duty and the right of the avenger of blood, is not ignored, but a more civilised order is being called into existence to control it. The blood-feud shall come to a final end.

There seems accordingly to be no need to introduce the centralisation of the cult in order to explain any of the terms of this regulation. Indeed to introduce that question demands an interpretation of the law in Exodus which does scant justice to its express terms. But, further, its intrusion only leads to greater difficulties. For it becomes necessary to seek some date at which this regulation was framed.

It can hardly be made post-exilic, for this period framed a law of its own (Num. xxxv. 9–34). That this law is late is proved by certain of its terms. Thus it enters into somewhat full details of the possible ways by which the murder has been done. It extends the benefits of the asylum-towns to the uitlander and the foreigner. But in particular it commits the trial and the decision of the case into the hands of the qahal or the

community. The clan is ignored. We are at a higher stage of social organisation. Either the clan has ceased to be potent in Israel, or lynch-law is being recognised as an offence against the authority of the community. Murder is not a matter which affects the power of two rival clans; it concerns public authority. Two laws, so deeply divergent in outlook, cannot emanate from the same period.

Nor is it easy to suppose that the Deuteronomic law was issued at the time of Josiah. The men of that time, in dealing with a question of civil order, might have ignored the priesthood and its influence, but they could not readily have passed by the centralised authority of the king and left the decision of murder and private war to be determined by local authorities. Already in the time of David a woman was finding it natural to appeal to the royal justice for protection against the horrors of the blood-feud, and already, what is much more significant, the king was prepared to accept this responsibility.[1] The authority of Josiah would scarcely have been ignored by men who were looking for his help in connection with the reform they were zealous to institute.

This remarkable power of the clan in what was virtually private war relegates the law to the period of the early kingdom at latest. Then the

[1] 2 Sam. xiv. 1–8.

boundaries of the state had been so much enlarged that it became necessary to recognise "that the way was long," and that new asylum-towns were needed. Then also the power of the new central authority was not so great that it could be relied on to prevail against the habits of the unsettled life in the desert and in the conquest.

B. The Dead Body Found in the Fields

In xxi. 1–9 appears the detailed statement of procedure which must be followed when the body of a murdered man was discovered in the open country. If no one knew how he came by his death, the authorities of the villages in the immediate neighbourhood must meet and determine which village lay nearest to the corpse. It then became the duty of the community which was found to be nearest to provide a heifer which had never been subdued to the yoke, to bring it down to a perennial stream and to break its neck in a piece of ground which had never been cultivated. When this was done, the priests, the sons of Levi, appeared on the scene. In their presence the village elders washed their hands over the dead heifer, and, after solemnly disowning all share in the crime, offered a prayer that Yahweh should not suffer innocent blood in the midst of His people Israel.

The primitive character of this ritual in itself

and in its underlying ideas is clear and acknowledged by all. The idea of unatoned blood bringing a curse, the insistence on the heifer being one which had never been subdued to the service of man, the demand that the ground also should never have served man's uses, the choice of a perennial stream for the ritual washing of the hands, all point back to early ideas on the dangerous nature of blood in itself and on the methods of making atonement. But, while the original law is recognised as primitive, it has, we are told, been submitted to revision. Thus verse 2 refers to "thy elders and thy judges." Evidently, says Hempel, the revisers have been at work. The primitive court consisted of the village elders, with whom the priests were associated in order to assist in certain ritual matters or, in connection with novel or difficult cases, to give direction by the sacred lot. But the centralisation of the cult destroyed the authority of these local priests, and it became necessary to institute local judges who might fill their place. What this law does is to arrange for regulating and equalising the duties of the elders and these new judges. Yet, according to Hempel, the law leaves the priests, although their place has been filled by the new judges. Instead of removing the priests and putting the new authorities in their place, it seems to remove the elders and either to associate with them or substitute for them the

new judges. And it does this so badly that, after having once spoken of elders and judges, it continues to speak only of elders. Besides, it is hard to see how the appointment of any judges could compensate here for the disappearance of the priests. If these last contributed chiefly some element of divine guidance, that was precisely what no civil judge could bring. To appoint another set of secular authorities was to add nothing except confusion to the original situation.

Hölscher, probably because he feels that, if the new judges were substituted in room of the priests, it is the priests and not the elders who ought to disappear, cuts out verse 5 with its command that the Levitical priests are to intervene as soon as the heifer's neck has been broken. But then it becomes necessary to ask why the clause which mentions the priests was added and who added it? It cannot have been the Jerusalem priesthood. They were aiming at the degradation of these Levitical priests and are supposed to have recast the law in order to adapt it to the new conditions after their rivals had disappeared from the local sanctuaries. It cannot have been the post-exilic men, since they had and showed no desire to be solicitous about the rights of the Levitical priests. Besides, Hölscher tells us, these priests were a close corporation in the city of Jerusalem. Now this law contemplates a people who live widely scattered over the country

in village communities where local authorities are still functioning.

If the legislators belonged to the period of Josiah or to the time after the Exile, it is a very curious fact, and one very difficult to explain, that they should have selected a law of this precise character in order to submit it to revision in the interests of the centralisation of the cult. Even in the period of Josiah Israel had practically become the city of Jerusalem with its dependent towns. Yet the priesthood selected a law which concerns a mere matter of civil jurisdiction, which touches the remote and outlying parts of the country, and which deals with what must after all have been a comparatively rare event. And they carefully submitted this to revision in the light of their newly introduced principles as to the cult.

In reality the law is perfectly clear as it stands, except in one minor detail; and the ceremonial it describes is quite straightforward. When its intention is realised, it becomes easy to recognise why it was included in the code of Deuteronomy. Thus it orders that the civil authorities are to take cognisance of the death which has happened in their district, and are to determine the village to which falls the duty of providing the heifer. The description of these local authorities is the one detail which presents any difficulty. In the first place where the men are mentioned

they are described as elders and judges, thereafter they appear only as elders. Yet the divergence is capable of ready explanation. The simplest suggestion is that the judges were associated with the elders merely for the measuring, to ensure that the elders who belonged to more than one village carried out their work justly. Each village would naturally desire to get rid of the responsibility and expense of providing a heifer, and its elders would be apt to exaggerate the distance between their home and the body. The judges, in fact, were arbiters and overseers; and their presence was a necessary precaution in order to avoid disputes between villages. When all matters connected with the measurement and resultant responsibility are settled, the judges disappear. Their function is fulfilled, and the matter is left in the hands of the elders of the nearest village.[1]

Or the two differing names of elders and judges may indicate two stages in the development of the village organisation in Israel.[2] The elders may be the original, primitive rulers who, sitting in the gate, controlled the village affairs after the custom of the fathers. With the rise of the kingdom, which represented an effort after more centralised authority in the nation, there were added to the local elders judges who controlled a wider district. This primitive law naturally

[1] I owe this suggestion to my friend, the Rev. B. R. H. Mein.
[2] See the further discussion, p. 161, *infra*.

described the village authorities as elders, since Israel knew nothing else at the time when it came into force. When, however, the new organisation sprang up, the law was modified. At the point where the civil authorities were first mentioned and were named elders, the note was made that the judges were associated with them. But it was not felt to be necessary to add the note throughout the whole of the law.

It may justly be said that all this is pure conjecture: it may even be said that, in our ignorance of the way in which the social organisation of Israel developed, it is illegitimate conjecture. I readily acknowledge the fact, if only it be equally recognised as illegitimate conjecture that the centralisation of the cult brought with it the appointment of judges to supersede the priests of the local sanctuaries in their functions. And I further add that the explanation by the intrusion of centralisation fails to explain why the priests remain still in the text, while my interpretation leaves their concern with the matter very clear.

For, as soon as the civil authorities have done their part in providing the heifer and breaking its neck, the Levitical priests appear upon the scene. They only appear at the time when they are needed, for they have to supply the liturgy which must be repeated by the elders over the slaughtered animal. The formula used in connection with the rubric of verse 7 is the same as

that which is employed at xxvi. 1–11,[1] because the situation is the same. The elders repeat after the priests, precisely as the man bringing reshith repeated after the priest, a solemn and stereotyped declaration of their innocence as to the murder, and a prayer that Yahweh will atone on behalf of His people the blood that has been shed. The invocation of Yahweh, the mention of "Thy people Israel whom Thou hast redeemed," the introduction of the Levitical priests, and the careful statement of their right to guide Israel in connection with such a matter,[2] all show the interest which is controlling the legislators. They are taking care that in a rite, the primitive character of which made it peculiarly liable to be tainted with heathen ideas, men in the remote country districts of Israel shall not be infected with heathen practice. The code is controlled by its familiar aim to set Yahwism versus Baalism.

Indeed, in view of the primitive ideas which appear throughout the rite and of their want of parallel with the most of Hebrew practice, it is not impossible that the whole custom may have been originally Canaanite and may have crept into Israel from the outside.

An instructive parallel is to be found in the

[1] ועגו ואמרו.

[2] It is possible that verse 5 has been expanded; but, in view of the reason for bringing in the Levitical priests at all, it is obvious that some such description of their function was in place. They alone knew משפט יה.

procedure prescribed as to the ashes of the red heifer in Num. xix. Scheftelowitz [1] has pointed out that certain features in this law, notably the fact that the priest who carried out the ritual and the man who burned the heifer were considered unclean until the evening, are best explained on the supposition that the entire rite was originally celebrated in honour of another god than Yahweh. It was a Canaanite, or at least a heathen, practice, which the priests found themselves unable entirely to forbid. The people were too strongly attached to it and were unwilling to surrender it at the command of their religious leaders. Consequently the priests needed to be content with making sure that the rite was celebrated in honour of Yahweh. It should be added to Scheftelowitz's interpretation that the reason for the priest being introduced at all was to guarantee that nothing was done which had a heathen implication. Though his participation brought Levitical uncleanness on himself personally, his presence made sure that everything was done without offending against the true Yahweh ritual.

The case as to the heathen provenance of the custom is not so clear in the law of Deuteronomy.[2] And, if it should be regarded as originally alien to the worship of Israel, the reason for adopting

[1] *Z.A.W.*, 1921, 113.

[2] *Cp.* now Elhorst, *Z.A.W.*, 1921, and Welch, *Z.A.W.*, 1924.

it may also be different. It need not have been because the Levitical priests found their people too strongly attached to it that they permitted it to continue. They may have recognised that it was capable of being made a means for instilling into the nation's mind a higher sense of the value of human life. But, whether or not the custom was originally heathen, and whatever the reason, if it came to Israel from the outside, which prompted its adoption, the Levitical priests are present to see that everything is done according to the will of Yahweh.

The reason for including the rite in the Deuteronomic code at once becomes obvious. It shows the engrossing aim of the legislators—to keep Israel faithful to its own religion and to its peculiar observances. So far from having anything to do with the period of Josiah, the regulation shows the prevalence of primitive ideas among the people and the simplest form of village organisation. It must be early, though it may have been slightly retouched when the king had succeeded in drawing the administration of justice under his control and in appointing judges throughout his territory.

C. The Judges and the Law of Evidence

It is possible to group and consider together several laws which deal with the judicial authorities and with the way in which they are required

to fulfil their duties. But in connection with this subject it is specially necessary to keep in mind how little is known about the growth of all the institutions of early Israel. The nation must have created at an early date some machinery for controlling and guiding its life. But all our documents deal primarily with religious matters and only refer incidentally to the way in which judicial affairs came to be managed, to the methods by which the king's revenues were raised, to the means used for managing business or training armies. Hence any result arrived at on these questions must always remain tentative. And when two results are possible neither can be regarded as sure. The student must accept what seems more probable.

The first law, xvi. 18–20, is a command to set up in Israel "judges and officers," who are called respectively שפטים and שטרים (shophetim and shoterim). Unfortunately the law is content to add a general exhortation that these men, after they are appointed, shall deal justly and refrain from taking bribes. Part of this exhortation, viz. verse 19*b*, appears also with a slight variation at Exod. xxiii. 8, and may be a later insertion or the quotation in both passages of a proverbial saying. We should have welcomed in its place a little information about the respective functions of these two bodies of officials, about their relations to the elders, and in particular to whom they

owed their appointment. But from other sources and from Deuteronomy itself it may be safely concluded that both were civil officers, and that the shophetim were specially concerned with the administration of justice, while the shoterim had charge of the levies of men and supplies for war. Further, from the fact that shophetim are only twice mentioned along with elders[1] while each set of officials frequently appears alone, it may appear to be probable that the functions of the two were in certain respects very much alike. The shophetim may have been appointed at the larger centres with charge over a limited range of cases, while the elders were left to exercise their functions in the village communities; but appeal could be taken, especially when a dispute arose between two villages, to the superior authorities. Or the shophetim were a later creation who took the place of and gradually thrust into the background the primitive village elders sitting in the gate. The fact that the shophet appears in xvii. 9 without the elder at a greater sanctuary along with the other fact that the elders appear

[1] Deut. xxi. 2; Ezra x. 14. It is interesting to note that the post-exilic men had not the same difficulty as their modern annotators in associating these two sets of officials. It is also noteworthy that they are so associated for a special judicial purpose, either because the elders needed help, or because there was need for a superior authority to decide on vexed questions which rose between little village functionaries. Was there a revival of primitive custom after the Exile, or had these local authorities survived the Exile?

to the very end of Israel's independent existence rather points to the former conclusion. Besides, Absalom is found regretting his father's neglect either to hear in person the complaints of men who came to the king's court for justice, or to appoint anyone who should do this work in his name.[1] The remark points to an inclination on the part of the people, as soon as a king had arisen among them, to turn to him for the decision of questions of justice. It also proves that the king was regarded as having power to delegate his authority in such questions, and that the need for subordinate officials to do this work in the king's name was being felt so early as the time of David. It may also suggest that men were then growing dissatisfied with the primitive arrangements—the courts of the village elders, and the decisions of the local priests.

It is an even more difficult question to determine who appointed these new officials. How the later time conceived them to hold their authority in the community is clear from 1 Chron. xxiii. 4 and xxvi. 29. These passages make both shoterim and shophetim Levites. If now it is correct to suppose that the shoterim held a function connected with the army,[2] this would point to the word having entirely lost its primary sense. It had become a mere title, as colourless

[1] 2 Sam. xv. 4.

[2] See Deut. xx. 5, 8, 9; 2 Chron. xxvi. 11; 1 Chron. xxvii. 1.

as the "officers" of the English version.[1] In a community which was no longer carrying on independent war and whose chief interest centred in its cult, it was absorbed as a title for some religious functionaries. But over against this representation of the shoterim as Levites, there is a very different attitude in other sources. Thus 2 Chron. xxvi. 11 speaks of Maaseiah the shoter and Jeiel the scribe being over Uzziah's army. The natural inference is that the man was a royal official. And 1 Chron. xxvii. 1 definitely calls the shoterim officers serving the king.

Again in Josh. viii. 33[2] Israel with its elders, shoterim and shophetim, is set over against and contrasted with the Levites. There the laity are separated from the clergy, and the shoterim and shophetim are regarded as secular leaders, not as priestly officials. And just as one source at least of Chronicles counted the shoterim royal officials, so another source (or the same) gave the appointment of the shophetim to the kings of Judah. For in 2 Chron. xix. 5 Jehoshaphat is said to have appointed shophetim over the principal towns of Judah. It is a slight but suggestive circumstance that this arrangement is confined to what are called the fenced towns of Judah. Apparently the villages were left in charge of

[1] That, it may be said, has been my reason for avoiding "officers."

[2] Compare xxiii. 2, xxiv. 1.

the primitive authorities, the elders. Here then certain of our sources regard the officials who had charge of the judicial and military affairs of early Israel as owing their appointment to the royal authority. That was a natural arrangement for the people to make or to accept, since according to 1 Sam. viii. 20 the two chief functions of the king in Israel were to superintend justice and to conduct war. Further, that the sources which give this information are late need not cause suspicion or surprise, for at the date of the Deuteronomic code, whatever that may be, both sets of officials were novel. The law permits or commands their institution.

When we find, at the period when Israel had consolidated itself into a larger kingdom under the leadership of David, the need of some better arrangement for the administration of justice being expressed, when we further find it said that one of the kings of Judah instituted a body of officials for this special purpose, and when we find that the king in doing this was merely delegating functions which were supposed to belong to his office, it is no far-fetched conclusion that the law which institutes these officials belongs to the time of the early kingdom. The code, be it noted in passing, says nothing about the origin of the primitive elders. And when we find that the later period regards these same officials as being of necessity Levites, it is equally no far-

fetched conclusion that the people were living then under totally different conditions from those which prevailed when Deuteronomy was drafted, and especially had no direct control over their own civil administrators.

Because the shophetim were new to office and untried men, they needed some guidance in the conduct of their duties, and the community needed to know how it must bear itself toward them. In the law for their institution nothing is said beyond the general demand that they shall not pervert justice and shall accept no bribes. But in xvii. 2–7 are found further directions for their conduct. At first sight the section seems merely to direct what is to be done with anyone who is suspected of the desire to turn the people away from the sole worship of Yahweh. But Hölscher insists that the emphasis throughout lies, not so much on the character of the crime charged, but on the need for honest and careful inquiry, on the fact that two witnesses are needed to establish guilt, and on the method in which the execution is to be carried out. The law, that is to say, is primarily interested in ordering the right method of trying and issuing a typical case. It may choose the particular case of apostasy, because that is the most heinous, or because the legislators were peculiarly interested in crimes of this type. But the burden of the law is the effort to direct the officials in the right conduct of all

judicial procedure. Hence xvii. 2–7 is very closely related to xvi. 18–20, where the shophetim were instituted. That is true and has been excellently stated. All that needs to be added to Hölscher's statement is that the recognition of the close connection of the two laws serves to emphasise how new to their task these officials were. They need and receive direction, because they are untried men. Unless then we are prepared to suppose that the only judges in old Israel were the elders and the priests, this law also with its instructions must be early.

It serves to emphasise that the judges were a novel institution, if we compare this law with the similar regulation for dealing with a case of apostasy, xiii. 7–12. There anyone who seeks to seduce his fellows into the crime of abandoning Yahweh is also condemned to death. But the task of trying the offender is left to the community, and nothing is said about the number of witnesses which is required. A law of this nature could only remain a dead letter in Israel or anywhere else. What was made everybody's business was nobody's business. It is another indication of the zeal of the legislators for maintaining the purity of worship, but it could never be more. Now, when judges have been instituted, the legislators seek to include among their duties the task of combating apostasy ; but they are also careful to set down the need for more than one witness.

Because the code has for its great aim the preservation of Israel from heathenism, it naturally attaches all its instructions for the new judges to the special case of apostasy. But in its description of the forms of heathenism to which the accused has been seeking to seduce his neighbours, Hölscher is probably again correct when he regards verse 3*b* as secondary. The entire verse runs: And he has gone and served strange gods and worshipped them and the sun or the moon or the whole host of heaven which I did not command. The syntax is as bad in Hebrew as it is in English, and the clumsiness of the sentence points to the final clause about the heavenly bodies being a marginal note which has crept into the text. There is no need, however, to regard the addition as very late. The special mention of sun, moon, and stars may have appeared to be called for at some period when this form of idolatry was peculiarly dangerous to the national faith, as we know it to have become in the reign of Manasseh, or even under Ahaz. An annotator added in the margin a warning against a special danger. Although, however, the method of procedure is described in connection with a typical case, that of apostasy, it is capable of extension over every case.

The following section, xvii. 8–13, describes the method of appeal in cases which are found too difficult for decision by the local authorities. This has already been touched on in connection with

the light it throws on the position of the Levitical priests.[1] Since, however, it is generally regarded as having been modified in order to adapt it to the new conditions which came in through the Josianic reform, and since it offers a typical illustration of the methods which are necessary in order to force a reference to that reform on the text, the section demands careful examination. Evidently it is closely connected with the preceding law, for it also lays special stress, not on the questions before the tribunal, but on the methods of procedure. Being closely connected with what precedes, it is also naturally connected with the law which instituted the judges. Hence it suggests where these judges fulfilled their duties. The case is to be brought to the sanctuary which Yahweh thy God shall elect. There the litigants will be able to find both the Levitical priests who may hitherto have had the sole right to determine cases of appeal, and the new judge who shall be there in those days. The judge has his seat at a leading centre of the national life, which was also naturally the site of a leading sanctuary. So have the Levitical priests. Anyone who carries his case thither is sure of obtaining the best decision that Israel can give him.

Because the Deuteronomic code is intended for the guidance of the people, it does not attempt to regulate the relative position of these two

[1] See p. 92, *supra*.

authorities, the civil judge and the Levitical priest. In the same way it did not profess to instruct the priests in their use of urim and thummim, nor prescribe the right method of offering sacrifice or the correct way to determine leprosy. These matters were the business of the priests themselves which the people did not need to know. In the same way the code leaves the difficult question of the relative authority of priest and judge to be determined by others. But it insists with emphasis that the community must obey its constituted authorities, and not reject their decision. It also prescribes the treatment which the people have the right to expect.

The only change in the text which has any authority and which seems necessary is in verse 9. There, following the LXX, we should read דרשו instead of דרשת. The law has ordered that the litigants shall repair to the priests and the judge. According to M.T. it continues: "And thou shalt inquire and they shall show thee the sentence of judgment." Obviously it is the officials and not the appellants who are to make inquiry and then issue the case: and that is the LXX reading: "And they shall inquire." Since the word used for "inquire" is almost a technical word for inquiring at Yahweh, that might seem to carry with it the conclusion that the officials who are to do this are the Levitical priests, and that "the judge who shall be in those days" who is associated

with them is a later addition. For it was the priests, not the judges, who inquired of God by the sacred lot. But the same word is used again in xix. 18 and is there directly joined to the judges without any mention of the priests: "The judges shall make diligent inquiry." What the use of such a word in a wider than the technical sense suggests is that we are dealing with a period before a technical vocabulary had been framed, and when such words were still used in their looser sense.

There is, however, no ground for objecting to or altering the text of verses 10 and 11. Puukko cuts out verse 11 entirely, because he thinks it a mere doublet to verse 10. Hölscher is content to excise a single clause, "and according to the judgment which they shall tell thee." This he thinks to conflict with "the sentence of judgment" at the close of verse 9.[1] The two scholars have failed to appreciate the precise sense of the passage. The Levitical priests are to inquire at Yahweh and to issue to the litigant the decision of the individual case.[2] "And thou shalt do according to the decision[3] which they issue to thee . . . and thou shalt carefully carry out what they teach thee.

[1] The two expressions are ועל המשפט אשר יאמרו לך and את דבר המשפט. Hölscher is troubled by המשפט and דבר המשפט, because he thinks the phrases are used to describe the same matter.

[2] את דבר המשפט.

[3] הדבר.

According to the torah (the general principle of the divine direction) which they teach thee, and according to the individual decision which they utter to thee, shalt thou do." The legislators are insisting on the authority which the priest possessed, since he issued every case in the divine name and by the divine authority. Both the torah by which he issued his decision and the individual decision must therefore receive all respect. Hence they continue in verse 12 and add that anyone who acts presumptuously in failing to obey the priest who stands there to serve Yahweh thy God or the judge shall die. It is difficult, however, to repress the suspicion that, when it speaks on the subject with such emphasis, the law betrays the fact that the decisions of the priests were not being received quite so submissively as had once been the case. The unreadiness to accept clerical jurisdiction may have been one of the reasons which led to the appointment of the new judges.

Other changes which have been proposed in the text are of a totally different character. They are dictated by the desire to explain the law as one which was called into existence or modified in order to suit the reform movement of 621. They must be considered, but, before entering upon them, it is worth while to pause and ask whether the regulation, as it stands, is not capable of a perfectly natural explanation, or whether

it is necessary to bring in the centralisation of worship at all.

The main reason which has led to the introduction of centralisation is the presence of the secular judge and the priest in the final court of appeal. Now we know that in Israel, as in many other nations of antiquity, justice and law were not only derived from and put under the protection of the deity, but were regarded as the peculiar function of the priesthood. We further know that, as soon as kings arose in Israel, difficult cases were taken to his court for decision and that it was regarded as one of his principal duties to administer justice to his subjects. This was probably connected with the idea that the king was not merely a civil ruler, but was also the anointed of the Lord. That, however, is of no significance for the present purpose. We have also reason to believe that the kings delegated this function to judges who acted by royal authority and were secular officials. Probably this step weakened in men's minds the sense of law and justice deriving directly from the deity. There must then have come a time when both priests and judges were administering justice without their relation to each other being precisely defined. Men clung to both ideals—that law and justice were the expression of the maturest human wisdom, and that they yet had behind them more than human authority because they

were the utterance of the will of God. It is to this transition period in Israel's national development that the law here under consideration, with its ambiguity as to the powers of priest and judge, may naturally be referred.

As has already been said, this view cannot pretend to be more than tentative, because of our ignorance of the way in which Israel's civil institutions took their rise and the line along which they developed. But it ought to be measured against the view which must be taken, if the law is supposed to have been framed or re-cast in order to accommodate it to the reform under Josiah. The question is: which is more probable?

Hölscher, then, regards the law as one which was intended to set up a purely priestly court of final appeal at Jerusalem. Previously litigants had been able to go to the local sanctuaries and there have their cases of appeal decided. When, however, the only sanctuary in the country was the temple, every such case must be carried to the capital. That, of course, is taken to be the meaning of going to "the sanctuary which Yahweh thy God shall elect." Since there is mention of the judge who shall be in those days, recourse must be had to the knife. All that is needed in order to make the law agree with the theory is to omit from verses 9 and 12 the inconvenient judge. With this omission Hempel and Puukko agree.

Unfortunately, however, the words are there, and none of our textual authorities throws any suspicion on them. They are a "gloss." But where did the gloss come from? And who added it? And what prompted them to make so curious and uncalled-for an addition to the text? Presumably the law without this gloss was drafted in the period of Josiah in order to authorise the incipient Sanhedrin at Jerusalem. It transferred the whole business of final jurisdiction from the local priesthood to the priesthood at the capital. This implies that all civil jurisdiction in the nation had hitherto been in the hands of the local priesthood and that the king had never been in possession of any authority in matters of justice. Otherwise, to take it away from the royal officials and to deliver it into the hands of the priests would have been a remarkable method of commending the reform to the reception of the king and his officials. Yet, after the central court had been thus instituted at Jerusalem and put into the charge of the priests, some one of sufficient influence to have access to the sacred law inserted clauses according to which a judge, appointed by an authority which is left wholly undefined, was to be associated with the priests. At a time when there was still a king in the capital, the priesthood claimed entire charge of all judicial functions in the nation: at a later time when Israel had no king and when the power of the priesthood was

greater than it had ever been before, this exclusive power was unaccountably surrendered. For, if the insertion of the judge was not seriously meant, if the intention was not to surrender the complete control of the priests, the addition of the words becomes merely wanton.

The situation grows only more bewildering and unsatisfactory when we pass on to xix. 15–21. This law begins by the statement that more than one witness was needed in order to establish a man's guilt. It then continues with careful instructions as to the treatment which must be dealt out to a false witness. The court before which the false witness is to be tried consists of the priests and the judges who shall be in those days: and it is said that the inquiry is to be made before the Lord. The text of the section is in good order. Hölscher, it is true, removes verse 15 as an addition on the ground that it merely repeats xvii. 6. This is scarcely accurate, for xvii. 6 only deals with the death penalty, ordering that no one shall be condemned to death on the evidence of a single witness. But xix. 15 extends this regulation to all offences alike. As for the objection that the verse has no formal connection with the following verses, that is unreal, for the verse needs none. Yet it deserved at least to be mentioned that, while M.T. leaves the verses unconnected, both LXX and Sam. begin verse 16 with an "and," reading וכי for כי, and so supply

as much connection as the sentence admitted or required.

This law says nothing about the place where the court has its seat: all that it says on the subject is that the accused are to appear before the Lord. But this hint joined to the presence of both priests and judges brings in the usual explanation that the law owes its present form to the new principle of centralisation of worship. Only the attitude of those who accept this view shows an instructive variation.

Thus Hempel, fastening on the fact that the accused appear before the Lord, is of opinion that such a case was originally determined by the oracle and by the oracle alone. Accordingly he can find no reason for associating judges with the priests, still less for any careful inquiry to be instituted by these judges. A case which was decided by the sacred lot needed no inquiry. He cuts out 17*b* and 18*a*, and so gets rid of the offending matter. With this Hölscher agrees, adding that עמד לפני, the phrase used for "standing before" the Lord, is only employed when men stand as servants before God or the king, never before priests or judges. It may be allowed that the phrase has a special sense when it is used about "standing before" the deity or the king. But Hölscher ought to have noticed that that is not the sense in which it is employed here. If he had recognised what is its sense here,

he would have recalled, to select only two examples of its usage, that Yahweh undertakes to "stand before" Moses (Exod. xvii. 6), and that Deuteronomy itself (i. 38) can describe Joshua as "standing before" Moses for a special purpose.

On the other hand, Puukko regards not the judges, but the priests of verse 17 as the addition. In his view this court in old Israel was entirely a civil court which had its seat in a local town, and was presided over by a civil judge. What happened when the centralisation of worship was carried out was that a central purely priestly court was instituted at Jerusalem, and to this all cases too difficult for local decision were brought. The law of xvii. 8–13 describes the creation of such a court. But the local, purely civil tribunals were continued with jurisdiction over minor cases. As these local tribunals could not include priests, the mention of the priests in our law (xix. 15–21) must be the "gloss."

What guides the interpreters in determining their "glosses" is not anything in the law as it stands. Its text is clear, and is capable of being understood. But the interpreters have made up their minds beforehand as to what the law ought to have said. Because the law must have been the programme for the centralisation of the cult, and because its present text does not exactly fit this purpose, it must be carved until it does fit. The same diversity of view on the subject of

what are to be regarded as " glosses " and the same helplessness to explain why the glosses were added appear in the treatment of xvii. 8–13. There again, while Puukko, Hempel, and Hölscher remove all mention of the judge in verses 9 and 12, Procksch omits the Levitical priests.

Now a method of treatment of the text, which results in this constant uncertainty, deserves close attention. When scholars differ in their interpretation of a difficult passage of an Old Testament text, there is a fondness in a certain school to insist on their disagreement, to indulge in the amusement of knocking the heads of the " critics " together, and then to leave the question which they have at least tried to explain as obscure as ever. I have no desire to imitate this cheap and facile habit. Any serious student of the Old Testament is only too well aware of the grave difficulties in text and interpretation which meet him, and of the legitimate and inevitable differences of opinion which must exist in so uncertain a field of study. The reason for drawing attention to the diversity here is that the difficulties in the text only exist in consequence of a prejudged opinion which students bring to its examination. The sole ground for making any change in the laws is that men come to them with a fixed verdict as to what these ought to have said. The first result is that each student comes with his own preconceived opinion of what

must be received as original in the law and carves the text to suit his view. The second and more serious result is that they all fail to explain why the law, as a matter of fact, does not say what they think it ought to have said, and to show why, when, and how the supposed glosses came to be added. Yet the first business of an annotator is to explain his text.

Puukko decides that the legislator was setting up a civil court; therefore he cuts out the priests. Hempel determines that all such cases were decided by the oracle; therefore he cuts out the judges. Neither scholar even thinks it necessary to explain why the superfluous official came to be mentioned in the text. Yet, if we decline to make up our mind beforehand as to what the law said, it becomes conceivable that both priests and judges were included, because the law was written at a period before these different authorities had separated and constituted themselves apart.

The result of such arbitrary procedure is inevitable. Neither Puukko nor Hempel can give a reason for the introduction of the gloss. Yet the words are there, and their presence demands explanation. If all such questions were decided by the oracle, why were civil judges added to the court? If, on the other hand, the law was framed in order to institute purely civil courts, who introduced mention of the priests? It is not

enough to say about an inconvenient clause, this is a gloss, and expect that decision to be received, unless some reason, other than a student's word, can be given for its insertion.

The case is worst for all who regard xix. 15–21 as meant to maintain purely civil courts. For the law still required the men to "appear before Yahweh" in a trial for perjury. Now if the only place where men could appear before Yahweh had become Jerusalem, the liberty to continue local civil courts was given in appearance and taken away in reality. If, on the other hand, the law was drafted in order to ensure that local causes should be carried to Jerusalem, it is necessary to ask why the centralisers selected the case of perjury as the one which fell to be decided before the incipient Sanhedrin ?

The only period when such a law could have been framed with any actuality in its terms was when men still appeared before Yahweh at the leading local sanctuaries. There they could find both judge and priesthood, because the nation was still in the transition state when justice was partly determined by human law and partly controlled by divine direction. And such an interpretation has this to commend it: it deals honestly with the documents.

CHAPTER V

ON THE FRAMEWORK OF THE CODE AND ITS LAWGIVERS

The purpose of this study has been to examine carefully and afresh the Deuteronomic code itself and, on the basis of this examination, to seek to determine its aim, its composition, and its period. It might merely confuse the issues to enter here into the difficult questions of the introduction or introductions and of the concluding chapters with their curiously miscellaneous contents. For it is obvious that we must approach the discussion of the introductory chapters in a very different way according to the view that is taken of the code to which they serve as introduction. To mention only one consideration, anyone who has convinced himself that the code is dominated by one purpose and is essentially a unity approaches the early chapters with very different standards from those of one who believes that it is made up of several documents which belong to various dates and do not serve the same purpose. Before the questions connected with the early chapters

can be discussed with much profit, it seems necessary to be clear as to the content and aim of the code. The nature and character of an introduction naturally depend upon the character of that which is to be introduced.

But there are two broad facts, one appearing among the final chapters, the other running all through the introductory material, which are easily recognised and which deserve to be brought into notice, because they bear on the present inquiry in at least a negative way. The introductory and final chapters cannot be appealed to as a witness to what was the main aim of the central code, for they may originally have formed no integral part of it. But they have been added to it by some one. And in the fact that they could be so added, there is to be found a suggestion which helps to bring out what its main aim was not.

One of these indications is to be found in the introductory, historical and hortatory chapters. It is well known that the school which came to control the religious thought of Judaism after the Exile were not content to insist on the centralisation of worship as an essential feature in their religion, and on the Aaronic priesthood as the true apostolic succession. They also taught that thus it had been from the beginning. What had ultimately emerged in the course of historical development was regarded as having always been

the rule and as possessing the authority of the first lawgiver. Fastening on the early institutions of the tent of witness and the ark, they were able to look upon these as having been the centre of worship before Israel settled in Palestine. These were derived from Moses and carried back to the period of Sinai. It was an easy step to model the simple tent of witness after the pattern of the temple at Jerusalem and to turn its officials into the full-blown Aaronic hierarchy. Then the law of the single legitimate sanctuary was dated from Sinai, continued to be observed through the wilderness journey, and formed the norm for the regulation of worship in Palestine. Numbers and certain sections of Exodus show this conception of the history of Israel's religion which is really based on a theological theory. It has its interesting analogies in certain historico-religious theories which govern men's minds to-day.

The remarkable fact about the introductory chapters of Deuteronomy is that this conception, even in its most rudimentary form, is wholly absent from them. The argument may be said to suffer from the weakness which attaches to every argument *e silentio*. But in this case there is less reason than usual to distrust it. For, if the aim of the code had been to insist on this feature of the centralisation of worship, or if the intention of the reformers in issuing it had been to introduce precisely this change in the practice

of their people, it would have been natural for them to lead up to it in their slight historical account of the way in which Moses led the nation from Egypt to the edge of Palestine. It would have been the more natural, because in this introductory material the men had a freer hand. In the code they were hampered by having to work over old laws, which were already rigid. In the historical matter they were dealing with more fluid tradition.

What makes the omission of all reference to centralisation more remarkable is that all the early chapters have an aim. There is a common note which runs through them, but it is not the note of the unity of the sanctuary. Thus the writers have no hesitation about appealing to the authority of Moses in favour of what they wish to enforce. They set their legislation under his authority and even make it his dying charge to his nation. They are further careful to say that he received what he delivers to them by direct revelation at Sinai. He is only giving Israel what he has learned from the mouth of God. Since therefore Yahweh is the God of Israel who has condescended to make known His will for the guidance of His people, Israel are to obey what Moses has commanded. That and nothing else is to be the norm of their national life. What they may for themselves choose to consider advisable or what they may admire and be

tempted to imitate in the practice of the surrounding nations must be sedulously avoided. Now if the aim of the lawgivers who drafted the code was to insist upon the distinctive character of Israel's religion and life, and to contrast it with Baalism, the introduction is well fitted to lead up to it. If, on the other hand, the purpose of the code was to insist on centralisation, the introduction can only be called a complete failure.

The phenomenon becomes more remarkable and demands explanation more urgently from all who, like Hempel, Puukko, and Steuernagel, accept several editions of Deuteronomy, and who find in the early chapters the several introductions to their several editions of the law. On the question of whether there are different introductions I venture to express no opinion here. What I urge is that, if we are to suppose that several editors belonging to different dates have been concerned in the opening chapters, it is only the more remarkable that not one of them has succeeded in making his introduction bear upon the real purpose which we are told some of them had in their editions of the law, viz. the centralisation of the cult at Jerusalem. Instead they have all made these bear on a totally different question. The matter, of course, cannot be pressed too far. The writer or writers of that introductory matter were not composing a complete history of the

wilderness journey or of the rise of the Mosaic institutions. He may have had much more in his mind. But the selection he has made of his material is very significant in determining what was his purpose in making a selection. And he nowhere selects what bears on the unity of the place of worship, or on the legitimate priesthood. Instead of this he insists on what bears evidence to the distinctive, divinely authorised character of Israel's worship as contrasted with that of the heathen world among which they live.

The second indication is to be gathered from the fact that there was included in, or added to, the Deuteronomic code as part of its conclusion the very remarkable section, xxvii. 1–8. In it Joshua is commanded, as soon as the people have crossed over Jordan, to set up on Mount Ebal great stones on which the words of the law are to be inscribed. He is further ordered to build there an altar of unhewn stones on which he is to sacrifice and at which he is to celebrate a festival before Yahweh. The little section bristles with difficulties, textual, critical, historical. Thus the fact that the form of address varies between the second singular and the second plural at once wakes suspicion as to whether the verses are homogeneous. And the repetition of verse 2*b* in verse 4, of verse 3*a* in verse 8 serves to confirm the impression that here we have to deal, either with different sources which have been combined into one narrative,

or with a simpler original which has been amplified by notes or even by corrections. Again, to observe that the Samaritan text and the Septuagint read Gerizim instead of Ebal in verse 4 as the place where the stones or the altar are to be set up suggests the possibility that the motive for certain textual changes may have been jealousy of Gerizim as the seat of the Samaritans and the desire to prevent the rival shrine of North Israel from claiming an authority which goes back directly to Moses. On the other hand, one naturally associates the altar with its burnt-offerings and peace-offerings and rejoicing before the Lord with the mount of blessing, Gerizim. The change might easily have found its way into the Septuagint and have nothing to do with opposition to the Samaritans.

Again, what may be the precise relation between the great stones on which, after they have been plastered over, the law is to be inscribed, and the altar of unhewn stones with its sacrifice and festival, is a very vexed question. Emphasise the one, the great stones with their inscribed law which are to be set up immediately after the crossing of Jordan, and it becomes natural with Hölscher to connect the command with the incident in Jos. iv. 4 ff., where Joshua is said to have set up great stones at Gilgal. The supposed explanation, it is true, raises more difficulties than those it answers. For at Gilgal the great leader

erected the stones purely as a memorial, inscribed no law on them, and built no altar. The omissions bulk much more largely than the seeming obedience. Besides why does Deuteronomy speak of Ebal? What has Ebal to do with the Gilgal near Jericho?

Emphasise the other, the altar on Mount Ebal, and it becomes as natural with Sellin [1] to see the fulfilment of this command in that remarkable account in Josh. viii. 30 ff. which relates the erection by Joshua of such an altar in the heart of the Ephraim territory. Yet that account is silent about any great stones with an inscribed law. And are we to conclude with Sellin that, since the altar at Ebal was set up immediately after the crossing of Jordan, the Israelites really crossed much higher up the river than the ford at Jericho?

These and such as these are the questions raised by the section. Since, however, it is impossible to deal with them here, it might seem useless to mention them at all. The reason for referring to them is that the recognition of the crowding ambiguities in the narrative only brings out more clearly where it is not ambiguous. The author of this section did not believe in the centralisation of the cult. He has no hesitation in representing Moses as commanding Joshua to erect an altar at Mount Ebal, to sacrifice on it and to celebrate

[1] *Gilgal.*

a Yahweh festival. And the account which took this attitude was either an original part of the Deuteronomic code or was subsequently added to it. Hölscher finds himself able to explain that "the offence against the idea of centralisation does not prove that the passage must be older than Deuteronomy, for the altar as mere bearer of the inscribed law is quite harmless." No doubt it would be, if it were not plainly stated that the altar was to be built of unhewn stones after the pattern of the primitive altar, and that it was to be employed for a sacrifice and for the celebration of a religious festival. To make such a command emanating from Moses later than the Deuteronomic law merely renders the situation for Hölscher a great deal worse, for then the narrative with its offence against the centralisation of the cult has been deliberately inserted at the close of a code which is supposed to have been carefully revised in order to set forth exactly this fundamental principle of all worship in Israel.

Now we know how the later school, with their fixed conviction that there was only one legitimate sanctuary for Israel, and that this had the authority of Moses behind it, dealt with historical incidents which stood in the way of their theory. For in Joshua, chapter xxii., there is an account of how Joshua forbade the tribes east of Jordan to erect an altar in their territory, and only permitted the

one which they had erected to remain when it was explained that it served no other than a memorial purpose. That in this story we have the transformation of a very different original is clear from two considerations. The older world no doubt set up memorials ; but, when it erected altars, it erected them as places for sacrifice. Besides, as a matter of historical fact, Eastern Israel once possessed its own sanctuary. For king Mesha of Moab relates that he destroyed such a Yahweh altar and carried away its sacred vessels in triumph. Evidently the later school were able to remove from the record of Joshua the charge that he, the successor of Moses, permitted such a deed in Eastern Jordan. But they could not, or at least they did not, obliterate the fact that he not only permitted such an altar in Ephraim, but even took part in its erection and in the worship which was offered there.

At some time or other, then, this narrative, according to which Moses not only authorised but commanded his successor to institute a local sanctuary, was included in the Deuteronomic code. If the purpose of that code was to set the stamp of illegitimacy on every local sanctuary in Israel, this account was peculiarly offensive. For it not merely recognised the existence of such a shrine ; it even derived its authority from the great lawgiver under whose authority the entire code was set. Who inserted it here ?

Those who hold that the account dates from a time prior to the Josianic reform seem at least to be in happier case than any who conceive it to be the production of the reformers themselves or of their followers. Anyone who wrote it for insertion here was gratuitously creating a difficulty. To count it part of the original Deuteronomy which was rendered innocuous by making the altar carry, not only sacrifices but a copy of the law, may at least claim to credit the Josianic reformers with some modicum of intelligence.

If, however, the Deuteronomic code does not concern itself with centralisation, but, in connection with the cult, is content to demand that Israel shall reserve its worship for such sanctuaries as Yahweh shall elect, the narrative is not only in full agreement with all that precedes, but forms an admirable conclusion to the whole. For then Moses is represented as not content to forbid the use of the Canaanite sanctuaries. He carefully provides for the religious needs of his people. He orders Joshua, as soon as they have taken possession of the land, to erect an altar such as Yahweh approves. Israel is not to be left with an order as to the sanctuaries at which they shall not worship. They are equipped from the beginning with their own place of worship.

But, further, the men who wrote this account evidently regarded the sanctuary at Ebal as being the first which was erected in Palestine, and as

owing its authority to the direct command of the great lawgiver. Again we have a significant hint as to the provenance of the Deuteronomic code, for we are carried to Northern Israel and to one of its leading sanctuaries.

Is it possible to reach any conclusion as to the authority which issued this legislation and as to the way in which it was enforced? Here our ignorance of the religious and civil order in old Israel warns against all dogmatism or even over-confident assertion. Yet one or two matters seem to emerge with comparative clearness, and some others may be at least tentatively advanced.

Thus the code has no order. Casual laws intrude themselves without any apparent reason, as in the case of the prohibition against removing a land-mark (xix. 14). Regulations about worship lie side by side with rules as to civic order. The law about the dead body found in the fields (xxi. 1–9) appears between two laws which deal with the usages in connection with war. Above all, the same subject is dealt with in different places. Prophecy is discussed at xiii. 1–6, only to be fully considered at xviii. 9–22. The rules about the appointment and conduct of judges are scattered over chapters xvi.–xix. The code, accordingly, cannot have been prepared and issued by a central authority which was legislating for the needs of a whole people. That fact alone makes it difficult to suppose that it was drawn up

to form the programme for the Josianic reform. We seem rather to be dealing with a collection of laws which were never issued together, but which may have been promulgated at different times, even from different centres and by different authorities.

Further, while the legislation has been issued by men who have a right to speak, their authority must have been chiefly of a moral character. On most subjects there is little evidence of the power, or, it may be, of the desire to make the law effective by force. Here, however, there is an interesting divergence. Penalties are decreed in connection with certain cases, but these are generally cases of the neglect of, or offences against, the civil law. Adultery, seduction, rape, murder, false witness have their penalties attached to them. But, while it is decreed that a prophet who seeks to draw the people away into apostasy must die, other offences against the code carry no penalty. This is the more significant, because another corpus of law is prepared to impose the punishment of death on a man found gathering sticks on the Sabbath.[1]

The authority which enforced these regulations, especially such as dealt with the cult, does not appear to have been that of the state. All we know of ecclesiastical authorities, particularly in earlier times, rather supports the impression that

[1] Num. xv. 32.

they are only too much inclined to use the civil power, when they can. It appears as though these lawgivers needed to rely on other sanctions. And what they do rely on, that to which they make their appeal again and again, is the general feeling of the community, a sort of public opinion as to what is fitting. This or that practice is תועבה, abomination, well-known and recognised as such. Men can be expected to realise and act on this appeal. In this connection it deserves attention that a central government in our sense of the word hardly emerges at all. When the king appears in these laws, the aim of the code is not to say what he is to do but what he must not do. His function in the community is ignored. Rather limits are set to his power, and conditions are laid down which he is expected to observe. Judges are appointed, but they sit alongside the old officials, the Levitical priests; and the relation between them is not precisely defined. And as to the penalties attaching to offences, it is the community, not the central authority, which carries them out. The legislators are not primarily framing a civil constitution: they seem rather to be determining how such a constitution may be made to fit in with the fundamental religious duties and organisation of the community.

Wiener, writing as a lawyer, has urged that the laws in the Old Testament codes should be

studied from the point of view of men who know how a statute is drafted. I can express my personal debt for the wholesome reminder that the legislation of ancient Israel was not passed *in vacuo*, but was intended to serve the needs and control the conduct of a living community. It has also been a useful thing to recognise that the linguistic test can be carried too far, and that, before we determine on such grounds alone that certain laws contradict each other, it is necessary to hear the verdict of men who know the way in which legislation comes to be framed. But, while Wiener has offered several valuable suggestions as to the laws on definite questions like marriage or rape or the like, he does not throw much light on the vague regulations with which Deuteronomy abounds. The legislators cast their laws and seem to prefer to cast them in large, general terms which will suit the minds of simple people. They do not use exact, technical phraseology, but seem content to employ terms which are capable of being readily understood by the people they address. They frame their legislation to meet peculiar circumstances which sometimes give the impression of being the outcome of a particular time, or even of seeking to meet new conditions which have recently arisen in the nation. All those laws about the judges leave very strongly the impression of being an attempt to accommodate a new system which has emerged

with the older system, the place of which it must take; *i.e.* they seem framed to meet, not a permanent condition, but a transition time. The men do not appear to be seeking to frame a well-digested, carefully thought-out system, which sprang from certain commonly accepted principles. They rather legislate because conditions are demanding some authoritative pronouncement or guidance. When laws which sprang up originally in answer to such accidental and temporary circumstances were put together, they might show the same phenomena of cross-divisions and confusions and omissions which are the noteworthy features of this book.

What the Deuteronomic code has suggested to my mind in studying it has been, not its analogy to one of our modern codes, but its likeness to the decisions of an ecclesiastical synod in the mediæval period. Every such analogy is, of course, apt to be misleading and must be even entertained with caution. But there is the same eye for the immediate need of practical guidance; there is the same type of authoritative pronouncement which is thrown rather into the form of an exhortation to the faithful than a command to subjects; there is the same sound sense of the utter incompatibility of two systems of thought which are appealing to men's minds and which imply two codes for conduct; and there is the same indifference

to studious uniformity of language or even exactness of regulation.

Whether, however, the code ever emanated from only one such authority must remain uncertain. We may have before us a collection of the pronouncements of several similar authorities. Or we may have a collection of the decisions of one authority at different periods in connection with the new conditions which emerged from time to time. If it were legitimate to conclude the latter, which on several grounds is more probable, the code might contain the practice or the usage which prevailed at one of the leading sanctuaries where Yahweh elected to locate His name. Then at once we may well be further right in drawing attention to the remarkable way in which the Deuteronomic code betrays acquaintance with the conditions in Northern Israel. Again and again it shows affinities with the thought and practice of Israel proper. Here it is true that we were well advised to be on our guard against hasty conclusions. For much more is known about the early religious life of the North than of the South. Our information in regard to everything which concerns the inward life of early Israel centres round Bethel and Samaria. Our ignorance of the real life of Judah in the earlier years is profound. Accordingly the features of the Deuteronomic code which connect it with the North *may* be features which were

common both to the North and to the South. Yet one cannot wholly escape from the impression that in the code we have a set of regulations which have the closest relation to the life of Ephraim.

Now Eerdmans [1] has pointed out that a great part of the legislation in Leviticus represents an effort to purify the sacrificial law from heathen elements and to guard it against heathen influences. He has also urged that many of the regulations which appear in it were incapable of being carried out in a widely scattered community and were only practicable in a city state. He is accordingly prepared to locate an early edition of the code in Jerusalem and to date much of it in the time of Hezekiah.

Eerdmans seems to me to ignore the presence of modifications in the law of Leviticus and to carry back too much. But he has brought out very clearly the aim of much of this law, *i.e.* its insistence on the Yahweh character of Israel's worship. In this respect the code has remarkable analogies with that of Deuteronomy. The most striking fact, however, is that there should be two codes which have the same general aim. It is possible that Leviticus, or a nucleus in Leviticus, represents the " use " which grew up round the temple at Jerusalem. Deuteronomy, on the other hand, may be the " use " of Bethel, or of one of the larger sanctuaries in Ephraim. Then it

[1] *Das Buch Leviticus.*

becomes not impossible that we possess in certain sections of Leviticus and in the Deuteronomic code the " uses " of the two leading sanctuaries in South and North Israel respectively. In that case it becomes easy to understand why the Deuteronomic code dropped out of use and remained the unique thing which it is among the legislations of old Israel. For it was natural that the returned exiles, most of whom were Judæans, should have taken over the law with which they were familiar, should have developed it and made it the basis for their new forms of worship. Besides, a law-book which originally envisaged Jerusalem was well adapted for a community which was largely grouped round that city. Deuteronomy, however, since it appealed less to their sentiment and was ill-fitted to their need, was never revised nor further used. It remained, an interesting monument of a certain stage in the nation's development, but no real factor in its further progress.

CHAPTER VI

CONCLUSIONS

It may be of value to set down some of the conclusions which result from the preceding analysis of the Deuteronomic code. It is true that, if the results are accepted, the consequences are too far-reaching to be summed up adequately in a brief chapter. But, though much may need to be modified, there remains a certain advantage in summing up certain of the immediate conclusions.

In the first place, the only law in the code which unquestionably demands the centralisation of the cult is xii. 1–7. The remaining sections of the law-book may imply that the legislators intended to enforce this change: this section can imply nothing else. To recognise that feature in this particular regulation instantly brings with it the recognition of certain others. The verses form a little unity which is entirely unconnected with what precedes and with what follows. If they were removed from the passage at the head of which they stand, the general sense would be unaffected. The passage would

read as well without them. They are also written in the second person plural, while the overwhelming majority of the laws in the rest of the code are couched in the second person singular form of address. Further, they can be proved to be late in date, and, what is specially significant in this connection, they are relatively later in date than the other laws, at the head of which they are set. The evidence for this date is unconnected with any view as to the development of the cult in Israel. The writers regard the conquest of Palestine as having been complete from the beginning and as having resulted in the disappearance of the Canaanites: the writers of the other laws regard their people as living in a country which contains many heathen altars.

Accordingly it is not impossible that this little section is an addition to the original code, inserted with the intention of laying down a general caveat as to the principle in the light of which all the rest must be read. And the character of the verses supports such a conclusion. For they state the general demand of the centralisation of the cult in the broadest terms and in the most uncompromising way. No consideration is given as to whether the demand made is practicable, nor is there any recognition of difficulties in the way of carrying it out. The legislators are not drafting a law; they are enunciating the fundamental principle which is

to govern Israel's entire sacrificial system, and which is to control all the following legislation.

In the rest of the code the situation is entirely different. There the centralisation of the cult is not clearly commanded. The language used to describe the place of worship, to which and to which alone Israel is ordered to bring all its offerings, is capable of having this interpretation read out of it or read into it: it does not of itself compel this sense. If, however, the code is read in this sense and so understood to be the programme of the reformers in Josiah's time, it becomes difficult, if not impossible, to regard it as ever having been intended for practical use. Certain observances which it demands could not have been carried out, if Jerusalem were made the only legitimate sanctuary in Israel. If these laws had all been of the same character as the single section which commands centralisation, *i.e.* if they had been confined to the enunciation of broad principles, it might have been possible to find some explanation. But, while some are undoubtedly of this general character, others enter into intimate detail about forms and habits of worship, about the conduct of judicial procedure, about war and the royal authority. The men who drafted these regulations must have intended them to form a guide for the actual life of the community.

In these circumstances one or other of two lines of explanation seems inevitable. If we retain

the customary explanation of the ambiguous term employed about the place of worship and interpret the sanctuary where Yahweh elects to locate His name as the temple at Jerusalem, we must also suppose that these laws were never intended for the practical guidance of the community. Some such explanation as that of Hölscher must be adopted. The code is not the programme of the Josianic reform: it is its deposit. Some of its demands may be the older law of pre-exilic Israel, but all those which are impracticable belong to the Exile. There the priests revised their old law and forced it into conformity with the new principle of centralisation which they had adopted for their nation's worship. Living apart from the actual conditions of a functioning society, they did not need to trouble themselves whether the system they framed was practicable or not. They were content to make it self-consistent, and especially to make it consistent with the fundamental law of their reform. This position presents a crowd of new difficulties to the student, some of which have been dwelt on in the preceding pages. Here it is only necessary to say that, in spite of its abounding difficulties, it seems to be the conclusion to which we are driven, if we retain the view that by the sanctuary where Yahweh elects to locate His name Deuteronomy means the temple at Jerusalem.

It is, however, legitimate to say that this is merely the interpretation of the phrase which

the later generation naturally adopted and which they imposed upon the code. To them the temple was the sanctuary which Yahweh had elected, and had become the only possible one. They could not conceive that the words might ever have had another meaning. But from the purely linguistic point of view the phrase is tolerant of the other interpretation according to which the Israelites are commanded to confine their worship to sanctuaries which belong to their own faith. And when the code is thus recognised as insisting, not on the unity, but on the character of its people's places of worship, it loses at once all appearance of an impracticable dream. All the demands it makes are seen to be no theoretical scheme framed *in vacuo*, but such wise regulations as were needed to safeguard the distinctive faith of the nation at a particular period of its development. Now this fact in itself is a strong support to the contention that the interpretation we have given to the expression is that which the legislators intended when they drafted their law. If we find in the sacred books of any nation, particularly in that section which they peculiarly name their law, a certain corpus of legislation, which on one interpretation of its language can be shown to form a working system, while on another interpretation it becomes an unworkable dream, the mere fact of its being included in the law supports the former explanation.

It may be urged, however, that there exists a sketch of the Jerusalem temple and its arrangements, which has been included in the Book of Ezekiel and which belongs to the period after the Exile. If the post-exilic men could create the imaginary scheme of a temple and could carry that out into full details about its furniture, they might well create a law which was to regulate its services. But whatever the original intention of the sketch of the temple may have been, it was never reckoned to be part of the sacred law, but was left among the less authoritative utterances of the prophets. It was never given the authority of Moses. What was included in the law and given the authority of the first lawgiver was the representation in Exodus of the wilderness tabernacle. And that was not based on the imaginary sketch in Ezekiel's book: it was modelled on the actually existing temple. The fact that the Deuteronomic code was regarded as an integral part of the law-book of the community points to its always having been regarded in a different light from Ezekiel's sketch of the temple.

Further, when the command about the place of worship is read as meaning that Israel must have nothing to do with the Canaanite sanctuaries and must worship only at those of its own distinctive faith, it falls into line with the main aim of the Deuteronomic legislation. For the burden of all the work of the lawmakers is to keep their

people apart from every heathen influence. All the worship of the nation must be offered to Yahweh. Accordingly their offerings of every kind must be brought exclusively to those sanctuaries which belong specifically to the national and revealed religion and which have associations with none but their own God. At these shrines, which are set apart for His exclusive worship, all emblems which suggest an alien deity must be carefully removed.[1] Even the matzeboth and asherim are to be thrown down and burned. They may once have been legitimate, but they are to be so no longer. No reason is given for their destruction, except that they belong to heathenism. Everything, too, which is done in connection with the offerings at the sanctuaries must be done in strict conformity with Israel's distinctive ritual. The people must carefully do as is prescribed to them in their own law. Yahweh alone is to be worshipped at His own sanctuaries. And His worship there is to have a character of its own, which befits His nature and is consonant with His will as that has been revealed to Israel. Therefore the legislators require that the sacrifices shall be offered through the hands of the Levitical priests, the priests who in those days shall be at the sanctuaries where Yahweh has elected to locate His name. The qualification of these men is that they know the will of their God in

[1] *Cf.* xvi. 21, 22.

connection with His sacrifices, and can avoid the danger of making these invalid by bringing into them the taint of heathen methods. An effort accordingly is made to attach these priests to the recognised sanctuaries. Anyone among them who desires to devote himself to the divine service there shall not be refused a position and a share. Yahweh must have His own priesthood, as He has His own ritual and His own shrines. And Israel must acknowledge none but these.

To this worship all Israelites have access and are held bound to conform. Even the uitlander, who lives permanently in the country, has a place at certain of the festivals. But everyone who is a devotee of an alien religion is rigidly shut out. Thus the self-castrated, who carry on their bodies the sign of their recognition of another god, shall not enter the congregation.[1]

But, in the view of these legislators, the distinctive character of Israel's national life, which is ultimately due to their distinctive faith, does not merely reveal itself in the cult. It extends

[1] xxiii. 2. I single out this regulation because Hölscher fails to recognise its sense and makes it accordingly an argument for a late date. The terms of the law make it clear that it is the self-castrated who are meant. These were *ipso facto* devotees of some Syrian religion which followed such a practice. Hence, when Deut.-Isa. lvi. 3 claimed that the eunuch had his rightful place in Israel, he was really recognising the law of Deuteronomy. But he also recognised that the castration of the eunuch was not self-imposed, and therefore implied nothing in connection with his religion.

itself into every part of their life as a people. Thus there are special circumstances for which the priestly torah is insufficient, and there are peculiar needs which call for satisfaction. The faith can meet these and has met these through the institution of prophecy. Yahweh will continually raise up a prophet who can direct them through his knowledge of the divine will. Israel does not need to have recourse to augurs and necromancers. To seek these is to deny the sufficiency of Yahweh : here, too, they must have nothing to do with heathenism.

Israel also has a civil organisation, a king, judges, officers. All these must be men who fulfil their functions after the mind of their God. They are not like the similar officials in surrounding heathenism. They are the servants of Him, over whose people they hold control. And they must administer their tasks in a fashion which is peculiar to His nation. Hence war in Israel is not conducted like heathen war, for the warriors are consecrated to Yahweh. There are certain things which disqualify a man from taking part in war, as there are others which make him unfit for worship. And there are usages in war which are legitimate among the heathen, but which are forbidden to Israel.

Even the minor details of life do not escape from the provisions of the law. Israel's amulets must be their own (xxii. 12). Their food is

regulated by certain tabus (xiv. 3 ff), which are religious in their origin. Their clothing is determined by certain things being forbidden (xxii. 5, 11); and again from the reason which is given for one of these orders it is clear that religion is the controlling factor.[1] In the majority of these regulations the lawgivers are evidently forbidding practices which have a heathen source or imply a heathen association. It is a legitimate inference that in the few cases [2] where it is not possible to make sure of the origin, the same principle is at work.

The constant note of the Deuteronomic code is not monotheism, but Yahwism. That on which the lawgivers lay continual emphasis is the character of the national God, expressed through all the forms of their people's worship, guiding and controlling its civil institutions and embodied in its daily habits. They have not before them the solitary dignity of Yahweh as the only God to whom reverence is due from all the world. And the lawgivers are insisting on this distinctive character of the God whom Israel worships in deliberate and unceasing contrast with the faith of the Canaanites among whom Israel is living. The presence of this alien faith is recognised to be a real and constant danger. Over against it

[1] See my *Religion of Israel*, p. 204 f.

[2] Such as the law against seething a kid in its mother's milk (xiv. 21).

the code holds up the true faith, as the source of everything which is distinctive in its people's life. That life becomes a unity, if only it is nerved and inspired by its distinctive religion. Prophet, priest and king have a common task, because they are guided by a common conviction to a common end. So the most heterogeneous matters, questions about debts and about marriage, about war and clothes, about necromancy and harnessing an ox and an ass to the same plough, are set down alongside one another with no sense of incongruity. These matters jostle one another in actual life, and the only thing which connects them is that the same man may have to deal with them all. Because the life of Israel is one, none of its factors seems out of place to the authors of this law. Because, too, the life they regulate is one, patriotism and religion can flow in a common channel. They have the same inspiration and identical aims. Inside the religious life, prophets and priests are still working on the whole in harmony. The prophets are zealous for Yahweh, and the priests administer and preserve the Yahweh ritual. The code can demand recognition of the prophet as the successor of Moses, and equal recognition of the Levitical priests. We are conscious of the atmosphere of a period in which life is still simple, even naïve. On these men the difficulties of a complex society have not yet dawned.

These features of the legislation and of the conditions to meet which it was framed serve to explain the unique character of the Deuteronomic code. It has always been recognised that it lies curiously apart from most of the other legislation in the Old Testament, having close affinities only to the early Book of the Covenant. Thus in many respects it has its own language. The Deuteronomists are very recognisable. It is not, however, sufficiently recognised that their peculiar style is largely due to a definite outlook. The men are not instructing a priesthood; they are guiding a larger community. And the community which they address is one which still has control of its own public life. Hence the men make their appeal to wider motives, to patriotic feeling as well as to religious conviction. And they have no hesitation about making that appeal; they are rather inclined to preach. Not only, however, is the language they use different; the things which they say are very different. The regulations of the cult which appear in Deuteronomy refuse to be brought into exact agreement with those of the legislation which guided the practice of later Israel. Its commands as to tithes—whether the tithes of the third year are additional to the ordinary tithes or not, its demands about firstfruits and about passover are continually in conflict with those which appear in the other books.

The reason is that the code was framed for one particular period in order to meet a definite set of conditions. That period with its conditions came to an end and with these came also to an end the legislation which had been drafted to meet them. It fell aside as a working system since its purpose was served. The new world brought its new conditions and the legislation which was required to meet them. Israel became a church at Jerusalem with a diaspora scattered in heathenism. It needed no longer to maintain that its God was different from all other gods: it had to teach that Yahweh was the only God. The whole outlook was changed and so were the conditions. A law which had for its burden Yahwism versus Baalism was outgrown. Israel now conceived itself to have always been a Church gathered round a wilderness tabernacle and governed by the priests of the Lord. Its legislation was recast to adapt it to the circumstances and ideals of its people. But the older law which had served the earlier time was not capable of being adapted to serve a new age. Its character was too definite and its outlook too limited to make any revision of its terms sufficient. When the Deuteronomic code is read without thought of the centralisation of the cult, one interesting fact about it is that it is so singularly free from glosses, explanations and additions. Now a law which is actually guiding a living community can

never be left without additions to make it applicable to new conditions, and explanations which bring out its precise sense in the face of new needs. Yet, though Deuteronomy specially needs explanation to bring its regulations into conformity with other laws, it has never received such. The conditions were so different that it could not be adapted.

Men said that it was framed by Moses to meet the new circumstances in which the people should find themselves when they crossed Jordan to take possession of the new land. In that saying they recognised one thing about it. The code was suited for Palestine, and only for Palestine. It ignored everything except a people settled in its own land, which could control its own life. And it was only fitted for Palestine, as Palestine was in that earlier period. For it made regulations for a Palestine where the high-places of Baal were present as a temptation to every Israelite. It had no thought of a people who lived in Jerusalem and were masters of the whole land, far less of a Jewry, half of which lived in diaspora.

The Deuteronomic code is the outcome and one expression of that religious and national movement which rose in Benjamin and Ephraim, and which in its beginning is associated with the personality of Samuel. It sprang up after the people had made good their footing in Palestine. As the Book of Judges shows, the real conquest

occupied a long period and was carried out sporadically. In some places the Israelites were masters, in other districts they were subordinate. But above all they had no outward and formal bond of unity. Judah was separated from the North by the wedge of Jerusalem which was still occupied by the Jebusites. Galilee had the belt of Canaanite towns along the Esdraelon valley between them and Ephraim. The leaders who arose from time to time—Gideon, Jephthah, Ehud—were heads of clans who repelled an immediate danger, not judges of all Israel. The quickening they were able to give died with the men who supplied it. There was no institution which could continue the work of the individual.

The unity and the institution to represent it came through a reassertion of Israel's distinctive life. What held the people together was their difference from those among whom they lived. And what made Israel different and united it by the sense of this difference was its religion. The revival of this religion preserved it from disintegration after the conquest. Yahwism stood then for much more than religion, it was the factor which separated Israel from the Canaanite, and which united it with the sense of a common bond and a common purpose. Once in the nation's history religion and patriotism could flow in a common channel.

Then, too, the religious movement itself was

homogeneous. The aim of all who led and shared it was to assert the distinctive character of the faith. Prophet and priest were able to work together. Samuel stirs up Saul and sends him to the prophets. When, as a sign of his coming greatness, the future king receives his first tribute from three prophets they are on their way to take part in a sacrifice. When he joins in the ecstasy of another band they are coming from a high-place. The documents call Samuel sometimes a priest, sometimes a prophet. He represents the movement which both these maintain.

The revival began on its political side by inspiring resistance against the Philistines, and to this end it supported the new institution of the kingdom. Circumstances, of course, helped it. The time was one of those rare periods when both the great empires of the Euphrates and Nile valleys were so weak that neither could follow its natural policy of asserting its influence over Syria and Palestine. There was an opportunity for the little state which lay between them to make good its claim to an independent life. But Israel could not have taken the opportunity which time gave, had it not been conscious of an independent life and resolute to assert it. And as the period brought the occasion for the nation so it threw up the man who was needed. But David was fitted for the occasion, not merely

by his native powers, but by the fact that he was sufficiently in sympathy with the religious movement to throw himself heartily on the side of the one influence which could blend Judah and Ephraim into Israel and inspire them after they were blended.

Winckler recognised the significance of the religious revival which accompanied the rise of the early kingdom, which indeed made its existence possible. But to him it was not so much a revival as the inception of Israel's distinctive religion. He believed that the Levitical priests, arriving from the desert, brought it into Judah where it found a leader and champion in David. The tradition, however, which connects the movement with centres outside Judah is too strong to be dismissed. Samuel, who is one of its initiators, is called an Ephraimite. Its centre is Shiloh, not far from Bethel. Its symbol is the ark, an Ephraimite emblem. When David was shrewd enough to make his new capital the centre, not only of the military strength, but of the religion of the nation, he brought up the ark into it. And the Deuteronomic code which is the outcome of the same movement is always bringing the student back to Northern Israel.

That implies that this could not be a wholly novel impulse which came in through importation from the outside. It was the native religion of the people which had carried them forward in

their first attack on Palestine, and now rallied them and saved them from disintegration. It also rallied to the newcomers the tribes who had never been in Egypt and who were more deeply tainted with heathen thought and custom. The faith gave them their land, their unity, their national institutions : in the Deuteronomic code it gave them their law.

To say, however, that the legislation is the outcome of such a movement does not imply that all its regulations were framed at one and the same period. The fact that it is so carefully stated what the king must and must not be is a clear proof that Israel is already within sight of the perennial question of Church and State. The demand that he must not be a second Solomon shows that particular law to derive from the time after the division of the kingdoms. And if it is correct to suppose that the new judges were appointed by royal authority, their installation in office can scarcely be earlier. But the code and the religious movement are dominated by the same aims and they reveal in the people similar conditions and needs.

Further, to say this does not imply that the legislators succeeded entirely in the effort made to keep their native faith pure from heathen influences. There were many circumstances which helped the drift in the opposite direction. The tribes which had not been in Egypt were

naturally on a lower level than the invaders. And though they cast in their lot with the newcomers, they did not easily part with their looser habits of faith and conduct. Private sanctuaries, like those of Micah, ministered to by casual priests, must have formed a door through which corruption crept in. I suspect that it was not merely against the heathen sanctuaries, but against these casual shrines that the Deuteronomic code was directed. My reason for the suspicion is the high value which the code sets on correct ritual and its insistence on the employment of Levitical priests. Then the political condition of the country, where the two little kingdoms were torn by mutual jealousy and exposed to encroachments and powerful neighbours, distracted the thoughts of men.

But a serious effort was made to prevent the faith of Israel from becoming another form of Baalism. And in one direction at least it succeeded. It prevented the people from using indiscriminately the heathen sanctuaries. They never adopted as their own any of the Canaanite shrines.[1] To make this statement is to contradict what has become almost a commonplace in most modern discussions of Israel's religious development. For it is frequently taken for granted that the people had no sooner settled in the land than they took over the native shrines

[1] See my *Religion of Israel under the Kingdom*, p. 12 f.

and with them the rites which were practised there. Yet it deserves attention that what is offered in proof of this is such a general statement as the following: "One or another of the sanctuaries introduced in what follows may naturally spring from later time: but in the well-known conservatism which obtains about sanctuaries one generally makes no mistake when one claims that those which are known from Israelite time belong to pre-Israelite time; in part they may even reach back beyond the Canaanites." [1] Now this conservatism in connection with the use of sanctuaries may be powerfully operative within the same people, or even between peoples which hold a similar faith. It may even be operative when the newcomers, though possessed of a faith distinct from that of those among whom they settle, are left without guidance. It is not operative where the newcomers are conquerors, where they are conscious of possessing a distinctive faith, and especially where they have among them men who are resolute to maintain this distinctive faith as the nerve of all their national life. The Israelites were conquerors whose wars were waged in the name of Yahweh. It was their faith which gave them their initial vigour to assault. It was on their faith they rallied to discover through it a unity which the initial conquest had broken,

[1] Bertholet, *Kultgeschichte Israels*, p. 74, note 1.

and to throw up the institution of the kingdom which was required to maintain this unity. The Deuteronomic code proves that there were men in the nation who were keenly conscious of the distinctive character of that faith and who, to preserve it, bade them worship only at sanctuaries which had associations with their national God. And not one of their leading shrines can be proved to have a Canaanite origin. It will need more than an appeal to the "well-known conservatism in connection with the use of sanctuaries" to controvert these obstinate facts.

The movement, of which the Deuteronomic code is the outcome, was strongly conservative, so far as the cult was concerned. The men needed to insist and were content to insist that all the worship of their nation must be in strict accordance with the Yahweh ritual. Everything, therefore, which had the sanction of the past was preserved without question. The code does not prescribe a ritual, it takes for granted one which already existed. It does not introduce any innovation, except in connection with passover. Even there when it alters the locus of the rite, it is in order the more effectually to preserve an older feature in it which was in danger of being neglected. When it mentions the month for the sacrifice, it is to connect its observance with the national deity and the national history.

The cult accordingly retains its original and

crude elements. The legislators are evidently influenced by the idea that firstlings are sacrosanct in themselves and that to turn them to other than sacred uses is dangerous. That idea is very close to a primitive tabu. They count it of extreme significance that the correct ritual should be observed. Yahweh might react against an offering which was brought to Him in the wrong way, as He reacted against one who handled carelessly the sacred ark. They regard it as important that leaven should not be used in certain rites and that sacred flesh should be preserved from all risk of decay. These are not æsthetic questions to them, but matters of high religious moment. To ignore them is to forget the ordinances of Yahweh. What the legislators have in mind is sedulously to maintain whatever has been their national practice in the worship of Yahweh. Why it has been so practised does not arise at all.

This situation becomes more significant when the attitude of the legislators towards their cult is contrasted with their attitude on moral questions. The high level of Deuteronomy on social morality has been so often recognised that it does not need to be dwelt on here at any length. I wish merely to emphasise two characteristics which it shows. Thus there is no thought of a universal ethic: there could not be. Deuteronomy has no recognition of a common humanity, for it is

not conceiving of Yahweh as the universal God. But inside the community, there is required not only justice but brotherhood. One may discuss whether the ideals which are expressed in the laws about debt and slavery were ever capable of being put into practice. One may even scoff at them as only possible in a social order which was simple and primitive. One may feel sure that such regulations could never continue into the time when the nation was flung into the cock-pit of the Semitic wars. But it would have been a better thing for the world if every faith it has known in its long history had spoken out as clearly that thus are men to live together who worship a common God. Even finer than the humanitarianism of the laws is their noble respect for human personality. Deuteronomy strikes already the note of what is finest in Hebrew ethics and one of its great contributions to the world. The custom of the year of release shows it in the patent effort to maintain the independence of the little man and in the frank recognition that, in order to be independent, he must possess something, some foot of ground which gives him a standing among his fellows. One recalls there Naboth's answer to Ahab. But perhaps it shows most finely, because most simply, in the direction: "When thou dost lend thy neighbour any manner of loan, thou shalt not go into his house to fetch his pledge." For every Israelite,

however poor, has the right to invite into or exclude from the four walls of the cabin he calls his home.

That is not a universal morality. Israel is thinking of itself as a camp. Its virtues are the virtues of the camp. All who wear the uniform have a claim on their fellows, which will be honoured. The outsiders are aliens. But, if Israel is a camp, it is a camp which knows itself to have a soul, as well as a skin, to guard.

Contrast the morality with the cult. The social morality of the nation is far beyond its ritual observances. It has given thought to what its God, being what He is, must require of His servants in their relation to one another. It has not begun to think seriously of what He, being what He is, must require of His servants in their relation to Him. For it has had to insist that this ritual is Israel's distinctive possession over against heathenism. What Yahweh has required marks Israel off. Therefore the lawgivers have been content to preserve it in its entirety.

Harper has said: [1] "There is no distinct assertion in either the Book of the Covenant or in Deuteronomy of the immediate and intimate connection between forgiveness of sin and sacrifice established by the Levitical law. Sacrifice is rather dealt with as a part of the divinely appointed way of approaching Jehovah acceptably

[1] *Expositor*, 1894, p. 250.

than as a special provision for atonement, reconciliation between God and man." Harper was writing about one aspect of sacrifice, its propitiatory character. But his remark can be justly extended to cover every aspect. Deuteronomy says nothing about any aspect of sacrifice or offering, except that it is the command of Yahweh. Vows are spoken of, and in connection with them it is ordered where they shall be paid and how. But the ends for which they are valid and the purposes they may serve are ignored. Regulations are set down as to the locus and due observance of passover, but nothing is said about the meaning and the validity of the rite. It is enough to insist that this is what Yahweh has commanded and that thus He has ordained it. The entire ritual is dealt with as the divinely appointed way of approaching Yahweh acceptably. But why Yahweh should require precisely these things and should not be satisfied with what was offered at Canaanite shrines, or why the method of offering at these shrines is an abomination to Him was not within the purview of the legislators. It was enough to demand from every loyal Israelite that he perform at the right place through the right hands after the right ritual the ancestral command of his God. Yahweh was different from the other gods. The difference was marked in this His ritual.

Accordingly it was here that the work of the

great prophets in relation to the cult began. The emergence of a man like Amos becomes explicable. To these men the difference between Yahweh and the other gods lay in His character. He was the righteous one who upheld all moral order. Therefore He was more than the God of Israel, He held a relation to the whole world. At once the prophets began to ask what intimate connection lay between Israel's ritual, which prescribed His demands from His worshippers, and His nature. What was there in Him which made Him pleased with those who honoured Him with sacrifices that had no leaven ? Why did He desire tithes, and what did He do with them after He had received them ? Since, too, He was Lord of the world, what was the relation between His universal government and this ritual which was the outcome of Israel's national history and expressed His relation to one nation ?

The moment the prophets began to formulate these questions, they found themselves in opposition. At the command of their religious authorities the people had in great part forsaken the Baal sanctuaries and carefully removed the resemblance between their worship and that of their neighbours. When Amos came, he found them crowding to shrines like Bethel, the sanctuary where Yahweh elected to locate His name, and even making pilgrimage to distant Beersheba. They were giving Him, and were assiduous in

giving Him, the sacrifices which were peculiar to His worship. The Deuteronomists had done their work so that the first great phase in Israel's worship, the recognition of its being distinctive and Israelite in its character, was fulfilled. With the appearance of Amos came in the second phase. It was necessary, since Yahweh was a righteous God, to determine wherein the distinction lay. And since He was also the God of the world, it was necessary to make clear whether His worship could only be Israelite.

From that hour the prophets, whose utterances we possess, could not let the question of the cult rest. And they all began to criticise, not to support it. The attitude which they take to it inevitably differs, according to the thought of God and His relation to the world which dominates their mind. Hosea and Amos do not occupy the same position on the question of the cult, and the position of each corresponds to the conception he has of the nature and purpose of God. But what they all hold in common is that the cult as it existed was not the essential and distinctive thing in the faith of Israel. The inevitable result was that from this time there came to be a cleavage within the religion of the nation. Prophet of a certain type and priest were opposed to each other. In Deuteronomy, as has been said, there does not appear any cleavage, for prophet and priest were still com-

bined in a common task. Both were seeking to make clear that the faith was not Baalism. When, however, the prophets began to define what it was, they parted. The priesthood, as was natural, maintained the position of Deuteronomy after the need for it had passed away. Their business was to administer the true ritual; and to them this ritual, because it was national and because it was distinctive, was valuable in itself. But to these particular prophets no ritual was valuable, except so far as it expressed the character of the God they knew. They criticised and attacked their own cult, because it was an imperfect embodiment of the true will of God for His worshippers. The two opposing strains in Israel's religion, which appeared then, were never reconciled. For in the Josianic reform it was decreed that one form of cult at one holy place through one official priesthood was alone legitimate. The religion of Israel must remain national. And then Jeremiah, the greatest prophet of the old order, was compelled to say that in the interest of true religion the temple must go. Yahweh would Himself deliver over to ruin the place to which had been devoted so many hopes and prayers, the sanctuary where He had elected to locate His name.

INDEX

INDEX OF SCRIPTURE PASSAGES

	PAGE
Deut. xii.	46
xii. 1–7	57, 193
8–12	55
13–19	47
20–28	52
xiii. 1–6	109, 185
7–12	159
xiv. 3 ff.	202
21	202
22–27	34
28 f.	44
xvi. 1–8	62
9–12	78
13–15	82
16 f.	83
18–20	153
21 f.	199
xvii. 2–7	158
8–13	160, 171
9	92
14–20	117
18	94
xviii. 1–8	98
1	96
6–8	91

	PAGE
Deut. xviii. 9–14	103, 185
15–22	108, 185
xix. 1–13	136
14	185
15–21	168, 173
17	92
18	163
xx. 2	92
xxi. 1–9	144, 185
5	96
xxii. 5, 11	202
12	201
xxiii. 2	200
xxiv. 8	95
xxvi. 1–11	25, 97
12–17	45
xxvii. 1–8	179
Exod. xx. 24	30
xxi. 12–14	137
Num. xix.	151
xxxv. 9–34	142
Josh. iv. 4 ff.	180
viii. 30 ff.	181
xxii.	182
Isa. lvi. 3	200

GENERAL INDEX

Abib, 62, 64, 69.
Abimelech, 130.
Abomination in Israel, 12, 105, 187.
Ahab, 109, 215.
Ahaz, 160.
Ahijah, 129.
Amos, 33, 37, 38, 68, 112, 114, 218.
Amulets, 201.
Apostasy, 158.
Ark, 100, 103, 176.
Asylum-towns, 136.
Augurs, 103, 104.
Avenger of blood, 137.

Babylonian tablets, 104.
Beersheba, 37.
Bekhoroth, 35.
Bertholet, 212.
Bethel, 38.
Bethlehem, 99, 102.
Blood, avoidance of, 49, 52.
Burkitt, 118, 121.
Burnt-offerings, 46.

Castration, 200.
Centralisation of cult, 20, 30, 41, 45, 51, 55, 80, 98, 133, 145, 165, 169, 175, 193.
Court of appeal, 166.
Cyrus, 122.

Dan, 37, 100.
David, 38, 102, 121, 143, 208.
Dead in fields, 144.
Debt, 215.
Deutero-Isaiah, 122.
Deuteronomy, programme of reform, 9, 14, 134.
  codes in, 12.
  introduction to, 12, 174, 176.
  editions of, 13, 17, 174, 178.
  deposit of reform, 14, 42, 196.
  connected with N. Israel, 34, 39, 76, 114, 132, 185, 190, 209.
  for the laity, 95, 97, 161, 204.
  its aim, 26, 51, 54, 65, 70, 79, 82, 107, 150, 158, 177, 184, 191, 198, 213.
  its conclusion, 179.
  its makers, 185, 189.
  its uniqueness, 204.
  its date, 206, 210.
  its ethic, 214.
Dreams, 113.

Eastern Israel, 182.
Ebal, 179, 184.
Eerdmans, 191.
Egypt, 117.
Elders, 145, 148, 154.
Elephantine, 127.
Elisha, 116.
Emblems, religious, 199.
Esdraelon, 36, 80.
Eunuch, 200.
Exodus, the, 65.
Ezekiel, 55, 68, 198.

Feast of tabernacles, 37, 41, 82.
Feast of weeks, 78, 83.

INDEX

Festival calendar, 62.
Firstfruits of ground, 25.
Firstlings of flock, 35, 39, 50, 214.

Gerizim, 74, 76, 180.
Gideon, 101.
Gilgal, 180.
Glosses, 39, 136, 167, 170.

Harper, 216.
Harvest thanksgiving, 79.
Heifer, the red, 151.
Hempel, 13, 15, 27, 39, 44, 67, 76, 78, 83, 127, 145, 166, 169, 171.
Hezekiah, 191.
Hölscher, 16, 18, 27, 39, 42, 72, 81, 113, 118, 134, 146, 158, 160, 163, 166, 171, 180, 196.
Homicide, 137.
Hosea, 31, 33, 34, 115 128, 130, 131, 219.

Jacob, 38.
Jehoiachin, 127.
Jehoshaphat, 156.
Jehu, 130.
Jeiel, 156.
Jeremiah, 112, 114, 220.
Jericho, 181.
Jeroboam I., 33, 129.
Jeroboam II., 112.
Jezebel, 130.
Joab, 139.
Joshua, 58, 179, 182.
Judge, 93, 145, 148, 152, 161.

Kennett, 16, 118.
King, the, 117, 187, 210.
Kirjath-jearim, 100.
Klostermann, 12.

Leaven, 67, 214.
Leprosy, 95.
Levite, 44, 61, 90, 98, 101, 155.
Levitical priests, 94, 96, 101, 146, 149, 161, 199.
Leviticus, 95, 191.
Lot, sacred, 93, 162, 169.

Maaseiah, 156,
Manasseh, 160.
Mesha, 183.
Messiah, 121.
Micah, 100, 211.
Micaiah, 109.
Montgomery, 75.
Moses, 57, 103, 108, 111, 115, 124, 131, 170, 176, 184.

Naboth, 215.

Obed-Edom, 100.
Officers, 153.
One of thy tribes, 48.

Pan, 105.
Passover, 62, 213.
Patriarchs, 114.
Peace-offerings, 46.
Perry, 15, 118.
Philistines, 103.
Prediction, 110.
Priests, 89, 133, 144, 219.
Procksch, 171.
Profane slaughter, 49, 52.
Prophets, 102, 201, 218.
Puukko, 13, 27, 39, 67, 83, 163, 166, 170, 171.

Reshith, 25, 97, 150.
Reuss, 16, 42.

Samaritans, 74, 180.
Samuel, 38, 107, 123, 206.

Sanhedrin, 167, 173.
Saul, 106, 107, 208.
Scheftelowitz, 151.
Sellin, 181.
Shechem, 37.
Shiloh, 96.
Shoterim, 153.
Solomon, 126, 129.
Spiegelberg, 22.
Stärk, 13.
Steuernagel, 13, 67, 123.

Tabeel, 130.
Third year tithe, 44.
Thomson, 75.
Tithe, 28, 34, 38, 50.

Unleavened bread, 62, 78, 83.

War, 201.
Wellhausen, 81.
Wiener, 18, 138, 187.
Winckler, 209.
Witnesses, 158, 168.

Year of release, 215.

Zedekiah, 127.

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